

FINAL STATEMENT OF REASONS

The Initial Statement of Reasons (ISOR) is incorporated by reference.

UPDATES TO THE INITIAL STATEMENT OF REASONS

The Notice of Emergency Regulations was published in the California Regulatory Notice Register on January 24, 2014. The Notice of Change to Regulations #14-01, including the text of the regulations, the revised Authorized Personal Property Schedule, and the initial statement of reasons, was mailed the same day to persons who requested to be placed on the Department's mailing list to receive notifications of rulemaking actions. These documents were also posted on the Department's Internet and Intranet websites.

The public hearing was held on March 21, 2014. No one provided comment at the public hearing. During the 45-day comment period, 49 written comments were received. These comments are discussed below under the heading, "*Comments Received During the 45-Day Comment Period.*" During a review of these comments, accommodations were made that resulted in a modified text and Authorized Personal Property Schedule. A Notice of Change to Text as Originally Adopted (15-Day Renotice), which included revisions to the text of the regulations and the Authorized Personal Property Schedule, was distributed on April 29, 2014, to all persons whose comments were received during the public comment period and all persons who requested notification of the availability of such changes. These documents were also posted on the Department's Internet and Intranet websites. The changes and reasons for them are found below under the headings, "*Changes to the Text of Regulations Since Emergency Adoption*" and "*Changes to Authorized Personal Property Schedule.*"

During the 15-Day comment period, eight comments were received. These comments are discussed below under the heading, "*Comments Received During the 15-Day Renotice.*" During a review of these comments, an accommodation was made to the text of the regulations that resulted in a modified text. A second Notice of Change to Text as Originally Adopted was distributed on May 22, 2014, to all persons whose comments were received, and all persons who requested notification of the availability of such changes. These documents were posted on the Department's Internet and Intranet websites. In response to this second renotice, four comments were received. These comments are discussed below under the heading, "*Comments Received During the 2nd 15-Day Renotice.*"

ALTERNATIVES DETERMINATION

The Department has determined that no reasonable alternative considered would be more effective in carrying out the purpose for which this regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Except as set forth and discussed in the summary and responses to comments, no other alternatives have been proposed or otherwise brought to the Department's attention that will alter the Department's decision.

LOCAL MANDATE DETERMINATION

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 – 17630.

INCORPORATION BY REFERENCE

Subsection 3190(b) incorporates by reference the Authorized Personal Property Schedule (4-1-14). This document is lengthy and would be cumbersome and impractical to publish in the California Code of Regulations.

DOCUMENTS AVAILABLE TO THE PUBLIC

The Authorized Personal Property Schedule was made available to the public throughout the rulemaking process, and will continue to be made available to the public.

CHANGES TO TEXT OF REGULATIONS SINCE EMERGENCY ADOPTION

Subsections 3190(b)(1), (b)(2), (b)(3), (b)(4) and (b)(5) are amended.

(The following update to text were included in the Notice of Change to Text as Originally Proposed dated 4-29-14).

All references to the revision date of the Authorized Personal Property Schedule are updated from 10-1-13 to 4-1-14.

Subsection 3190(j)(6) is amended.

(The following update to text was included in the Notice of Change to Text as Originally Proposed dated 4-29-14).

Text is added to make clear to inmates and vendors that headphones and earbuds are included in special purchases. This change was not included in the original notice, however is sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action.

Subsection 3190(k)(2) is amended.

(The following update to text was included in the Notice of Change to Text as Originally Proposed dated 4-29-14).

Text is added to clarify the disposition of property related to Privilege Group C status.

Subsection 3190(o) is amended.

(The following update to text was included in the 2nd Notice of Change to Text as Originally Proposed dated 5-22-14).

Text is added to make clear to inmates, inmate correspondents, and vendors that headphones and earbuds are included in special purchases. This is necessary to be consistent with subsection 3190(j)(6).

CHANGES TO THE AUTHORIZED PERSONAL PROPERTY SCHEDULE

(The following updates were included in the Notice of Change to Text as Originally Proposed dated 4-29-14).

EXEMPTIONS

- Avenal State Prison exemptions are revised to allow appliances due to a reduced inmate population, the subsequent increase of living space, and availability of electrical power.

THE AUTHORIZED PERSONAL PROPERTY SCHEDULE IS AMENDED IN ITS ENTIRETY AS FOLLOWS:

Matrix Numbering Legend: 1. Reception Centers Male Inmates 2. General Population Levels I, II, and III, Male Inmates 3. Level IV Male Inmates 4. ASU/ SHU/ PSU Male Inmates 5. Female Inmates

MATRIX

- References to Revision Date are updated to 4-1-14. **ALL**
- The word “each” is added after all occurrences of the word “ounces” or “oz. to make clear that the allowed quantity is for each container, not the aggregate total of all in possession. **ALL**
- References to Family Foundations Program (FFP) are deleted, as it no longer exists. **5**

PERSONAL CLOTHING IS AMENDED AS FOLLOWS:

- The introductory bullet point referring to possessing items of clothing designed for the opposite gender is deleted because of the limited availability of female designed clothing in the vendors’ catalogs. **5**
- The introductory bullet point referring to possessing items of clothing designed for the opposite gender is revised to refer to the proper name of the organization responsible. **1, 2, 3, 4**
- **Athletic Shorts** is revised to add clarifying language related to pockets to explain what a permitted pocket consist of. **1, 2, 3, 4**
- **Brassieres** are revised to increase the quantity for hygiene needs. **5**
- **Head Band** is reinstated as an allowable item as no apparent security threat exists. **1, 2, 3, 4**
- **Panties** is revised to remove the restriction related to full cut briefs and add restrictions related to thong and g-string, for clarity to inmates an staff. **5**
- **Sweat Pants** is revised to add clarifying language related to pockets. **1, 2, 3, 4**
- **Under Shirts** is revised to reinstate t-shirts as allowable as no apparent security risk exists. **5**

PERSONAL CARE / HYGIENE IS AMENDED AS FOLLOWS:

- **Deodorant / Antiperspirant** is revised to remove restrictions related to clear case thus allowing a greater variety of available products. **ALL**
- **Hair Oil/Grease** is revised to add Gel and Pomade as allowable thus allowing a greater variety of available products **1, 2, 3, 4**
- **Laundry Detergent** is revised to edit the restriction related to Warden’s approval and access to washing machines. **ALL**
- **Lotion** is revised to remove sunblock into its own category, and remove restriction of glycerin, as the small amount is not a security risk. **ALL**
- **Medications, Over-the-Counter** is revised for clarity. **ALL**
- **Shower Bag** is revised to remove CIW only as it was determined not to be a security risk and it is being made available to the other female institutions. However, not all female institutions need the inmate population to have a shower bag due to the location of the showers, so Warden Discretion is added. **5**
- **Sunblock** is added as standalone item and is removed from the lotions category. **ALL**

- **Toothpaste / Powder** is revised to remove restrictions related to clear case thus allowing a greater variety of available products. 1, 2, 3, 4

FOOD IS AMENDED AS FOLLOWS:

- **Condiments** is revised from quantity of “one” to “Yes” to allow access to a variety of condiments for inmates in PSU/SHU. 4
- **Precooked / Reconstituted / Dehydrated / Instant Foods** is revised to allow this item for ASU/PSU/SHU as no security risk exists. 4, 5

MISCELLANEOUS ITEMS IS AMENDED AS FOLLOWS:

- **Ballpoint Pens** is revised in Matrices 2, 3 and 5 to remove the color restriction of black/blue ink only, and the quantity for possession is increased to 14 for consistency throughout the Authorized Personal Property Schedule. Matrices 4 and 5 are revised to add clarifying language related to possession of this item in ASU/SHU/PSU. 2, 3, 4, 5
- **Can Opener** is revised to disallow this item, as Level IV inmate cannot possess canned goods. 3
- **Card Stock / Drawing Paper** is revised to allow 25 sheets instead of ten sheets for consistency with other security levels. 2, 3, 5
- **Ear Plugs** is added as an allowable item, made of soft foam only, as no apparent security risk exists. 1, 2, 3, 4
- **Pencil Eraser** is revised to include the restriction of kneadable erasers because they can be easily manipulated in the cracks, joints of interior walls and ceilings to conceal contraband. ALL

GAMES IS AMENDED AS FOLLOWS:

- **Scrabble** is added as an allowable item for male inmates, with restrictions based on security level, as no security risk exists. 1, 2, 3, 4

REGISTERABLE PROPERTY IS AMENDED AS FOLLOWS:

- The introductory bullet point regarding accessories for appliances is revised to include “non-electric” to allow for more choices and options. ALL
- **Earbuds** is revised to include Headphones for clarity that inmates may possess one or the other but not both. The clear case requirement for earbuds is removed to allow more purchasing options. Matrices 4 and 5 add the restriction of “earbuds only” for security purposes. ALL
- **Headphones** is deleted as a standalone item and is merged with Earbuds. ALL
- **Lamp** is revised to allow the possession of a clamp style lamp for Levels I and II inmates and establish overall measurements for institutional security. Flexible neck is added to book lights for male inmates due to institutional security. 2, 3, 4, 5
- **Television Set** is revised to increase the flat panel screen size to 15.6" to allow inmates more purchasing choices. ALL

SUMMARIES AND RESPONSES TO PUBLIC COMMENTS

PUBLIC HEARING COMMENTS

The public hearing was held on March 21, 2014. No one commented at the public hearing.

COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD

COMMENTER #1

COMMENT 1A: Inmate personal property is the same color as State issue property. Requests that CDCR allow inmates to order the color opposite of what is State issued. For example, watch cap State issue grey they can order white; T-shirt State issue is white. Inmates can purchase grey only.

RESPONSE: *CDCR is electing to continue to allow both white and grey, as there is no apparent security risk.*

COMMENT 1B: Commenter asked for clarity regarding whether doubled lined watch caps are allowed or not.

RESPONSE: *At this time, double lined watch caps are not authorized due to safety and security as multiple linings provides the ability to hide contraband.*

COMMENTER #2

COMMENT 2A: CDCR has divided the Levels I, II and III and then Level IV and this is wrong. Based on the revised section 3375.1 Inmate Placement, CDCR now has a lot of Level IV inmates on the Level IIIs. CDCR should split the levels for the property matrix at I and II and then III and IV. This is really a no brainer for inmates to see this. With the levels set as they are in the regulations, Levels I and II come up short.

RESPONSE: *An inmate's individual custody level and privilege group determines the allowable property identified in the Authorized Personal Property Schedule, and there is no compelling need to change the format.*

COMMENT 2B: Toothpaste. Apparently no one at CDCR has considered that limiting inmates to clear toothpaste in clear tubes means that everyone in CDCR now has to use Colgate Clear Toothpaste as there is no other one available. Currently toothpaste is in sealed tubes and is not subject to being opened and stuff stashed in them. Another bad idea.

ACCOMMODATION: *CDCR recognizes the limited availability of clear toothpaste containers, and has elected to remove the clear container requirement. This change was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 2C: Shoelaces. Really? One for one exchange! Yea, this is going to be fun to implement.

RESPONSE: *The current Authorized Personal Property Schedule allows for the possession of the two pair of shoelaces.*

COMMENT 2D: Taking everything away except antacids and cough drops is unnecessary. Medical depends on us being able to purchase our own over the counter (OTC) meds instead of them writing prescriptions for them. You are simply making another very expensive mistake.

ACCOMMODATION: CDCR has amended the language on the Authorized Personal Property Schedule for clarity. Furthermore, additional OTC medications are available through institutional canteens. Canteen OTCs are approved by the Division of Correctional Health Care Services. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.

COMMENT 2E: When CDCR issued the last property matrix, it implemented the clear case requirement, and arbitrarily eliminated typewriters (word processors) that had internal memory. When this restriction was drafted, it was only supposed to clarify the removable memory devices (floppy discs at the time, and now it would be flash drives). It was never the intent to restrict inmates from having typewriters with internal memory. You should note that other states allow inmates not only word-processors (SWINTEC carries a clear case model sold by Walkenhorsts at \$310) but some are allowed portable (laptop) computers as well as access to the Internet. Since CDCR went to the clear case requirement, none of the typewriter manufacturers make a clear typewriter except SWINTEC who makes a full line of prison-friendly typewriters with internal, tamper-proof memory. CDCR really needs to re-write this section allowing us to have clear case internal memory typewriters as California is far behind other states in this regard.

RESPONSE: CDCR will consider the inclusion of typewriters with internal memory during the next revision/update to the Authorized Personal Property Schedule.

COMMENT 2F: Just what is an inside pocket? Pockets on inmate clothing is necessary to carry our identification cards, pen/pencil, etc. Saying no pockets limits contraband is ludicrous. Inside pockets to me are what you used to consider as pockets without access from the outside (like on Levi jackets). If you are currently referring to an inside pocket as one of these, then you have done a beautiful job of confusing everyone.

ACCOMMODATION: Text is added to the “Athletic Shorts” and “Sweat Pants” categories defining allowable pockets. This revision was included in the Notice of Change to Text as Originally Adopted dated 4-29-14.

COMMENTER #3

COMMENT 3A: Please allow the game of Scrabble for male inmates. It is my understanding the game of Scrabble once allowed, was restricted because the tile racks were made of wood. This is no longer true for the modern standard issue game. Tile racks are now made of a thin plastic and pose no security threat. The game of Scrabble is an educational tool as well as a healthy enjoyable game. Once again, please reconsider and allow the game of Scrabble for male inmates.

ACCOMMODATION: CDCR has amended the Authorized Personal Property Schedule to allow the game, Scrabble for male inmates. This change was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.

COMMENTS #4

COMMENT 4A: The proposed changes will go far in helping to alleviate some of the current confusion and arbitrary discretion being applied locally.

RESPONSE: *The CDCR appreciates the positive comment.*

COMMENT 4B: It is proposed to disallow all male inmates (Levels I-IV) from purchasing laundry detergent at prisons that do not have laundry machines available for inmates' use. Warden's permission will be required in order for inmates to be permitted to purchase laundry detergent even at those prisons with inmate-use laundry machines on any of the Level III yards.

There are many reasons why access to laundry detergent is a benefit to male inmates, and we see no significant reason for this change. We have no knowledge of any penological need (safety and security threat) that the possession of laundry detergent poses, nor is there any security need identified in the changes to the matrix. Inmates have used this product throughout California prisons for a very long time without any difficulties, so why the need for change?

The manufactured designation for the use of laundry detergent (liquid or powder) does not solely require a user to have access to a laundry machine. This cleaning product can just as easily be used via a hand-washing procedure. Currently, and previously, this is what inmates do when they launder their items. The convenience of laundry detergent in a small box allows for the clean storage of the excess material for future use.

The option of laundry bar soap has been mentioned as an alternative to laundry detergent. Quite simply, laundry bars do not last as long as the detergent, are too large to fit in conventional soap dishes, and are messy to store after use. In addition, personal bar soap is presently limited to six per quarter. There are no proposed changes to increase this limit. The requirement of using laundry bar soap would mean inmates have less access to bar soap for their personal body cleanliness. Added to that, facility canteens do not provide laundry bar soap for sale, and not all inmates have the support/access to purchase inmate packages.

Having spent significant funds on personal clothing, inmates want to efficiently remove dirt and bacteria conveniently. We already know that norovirus and other bacteria-based illness are rampant in institutional settings. So why limit the ability for inmates to keep themselves and their personal property clean, with no additional expense or risk to the State?

There is a significant need for us to have access to purchasing laundry soap in either the facility canteen and/or inmate packages and we claim that there is no reason why this cannot continue to happen.

ACCOMMODATION: *CDCR has elected to edit the Authorized Personal Property Schedule restrictions regarding laundry detergent. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENTS #5

COMMENT 5A: Request that Notices of Change to Regulations be available in the Segregated Housing Units, as they are not.

RESPONSE: CDCR received a Certification of Posting from California Medical Facility certifying under penalty of perjury that Notice of Change to Regulations #14-01 was posted in conspicuous places throughout the institution.

COMMENT 5B: It appears that decision making regarding allowed property has been relinquished to low level staff. There needs to be a designated level required, such as Captain. Commenter includes copies of two forms; the Non Disciplinary Segregation (NDS) status - Ad Seg Inmate Property Request Form and the Ad-Seg Inmate Property Request Form. Commenter continues in reference to the forms. Please note in the food item section that it appears that NDS is identical to Administrative Segregation inmates, and is not in compliance with the mandate. This needs to be fixed.

The purpose of NDS has been defeated by staff at CMF. There should be included how the new procedures shall be implemented. The area of packages for NDS needs to be fixed, first and foremost.

There is ambiguity in who oversees this area concerning NDS packages. As it stands we are not receiving the packages we are entitled to. For example, I order a package and the allowed items are restricted from the vendor and other approved items are not allowed by property officer who claims he has nothing to do with NDS packages. A fix. NDS inmates should be allowed to R&R and bypass the middle man, thus to make it more consistent with other institutions. The vendor access has me listed as D-1-D. I am NDS. Staff here at CMF do not know how to fix it from the Warden on down who referred me to ASU sergeant. There is no fix in place. In addition, many staff members are not in agreement with the new policy and thus it is hard to get any help.

For example, we could not get access to vendor catalogs to make selections. I myself was directed by property officer to my counselor and referred by counselor to the ASU sergeant and then back to the property officer. I had to go to MAC (IAC) to make catalogs available. There was a simple fix, go to R&R and pick up catalogs or make provisions to have catalogs delivered to closed units as they are to other units.

RESPONSE: Although the above comment does address an aspect or aspects of the subject proposed regulatory action and must be summarized pursuant to GC Section 11346.9(a)(3), it is either insufficiently related to the specific action or actions proposed, or generalized or personalized to the extent that no meaningful response can be formulated by the Department in refutation of or accommodation to the comment.

COMMENT 5C: In Notice 14-01 there is no reference to non-disciplinary status which has been confusing to staff. I get it, but there needs to be more clarification so that staff and inmates will be on the same page. The NDS matrix should be added to ASU/SHU/PSU matrix to clarify it is different and to easily recognize the additional property authorized and benefits seen.

RESPONSE: CDCR will consider the inclusion of the NDS property matrix during the next revision/update to the Authorized Personal Property Schedule in accordance to CCR, Title 15, Section 3190(b).

COMMENTER #6

COMMENT 6A: Televisions without speakers will present a hazard, and likely increase in-cell assaults. The revision of Registerable Property now requires that all televisions are to be ordered without speakers and that headphones or earbuds be utilized in order to listen to the television. I do not

believe they have taken into account the fact that CDCR places two inmates in a cell that was designed and has room for only one inmate. This will cause inmates to have to place their televisions on their prospective lockers and have the cords draped across the cells. This creates a hazard in the cell. The flat panel televisions are lightweight and could be easily pulled off of the locker and broken. The cords are not long enough to run along the walls and/or ceiling to the bunks. Inmates have no means to secure the cords out of the way of their prospective cellmate. This change is also going to likely increase the number of cell assaults due to an inmate's television being damaged or broken by their cellmate. While the new rule was implemented as a safety and security measure to prevent the possibility of an inmate using the volume of an entertainment device to mask the assault on an inmate or staff member or to mask the manufacturing of a weapon, it should be noted that playing an appliance at such a high volume is not tolerated and would only bring attention to the person who was trying to avoid it.

RESPONSE: *To minimize the disruption of sound from potentially hundreds of televisions in any one housing unit, reducing the ability to adequately provide safety to our inmate population, CDCR has elected to disallow newly purchased televisions with speakers.*

COMMENT 6B: Inmates should be allowed to have one set of headphones for each qualifying appliance with a maximum of two. The revision of Registerable Property did not include an increase in the number of headphones or earbuds an inmate may possess, it only allows for one. An inmate may possess a portable CD player and/or radio and a television set. In order to listen to those appliances an inmate is required to use headphones or earbuds. Televisions, CD players, and radios all come with their own set of headphones. Yet an inmate is only allowed to have one pair. The second set is disposed of by the property room or sent home at the inmate's expense. The wear and tear on the appliance from transferring the headphones back and forth is unnecessary and could be limited by allowing inmates to possess a set of headphones or earbuds for each qualifying appliance. Currently if an inmate has more than one set of headphones or earbuds, the second set is considered contraband and a violation of CDCR rules and regulations.

RESPONSE: *CDCR has determined there is not a sufficient need for multiple set of headphones/earbuds.*

COMMENT 6C: Headphones and earbuds should now qualify as a special purchase item in and of themselves. Under the current regulations, headphones and earbuds only qualify as a special purchase if you are purchasing a compatible special purchase item, such as a television, radio or CD player. If an inmate's headphones were to malfunction or be broken, he may have to wait up to 90-days in order to replace them utilizing a quarterly package. This would leave all entertainment devices virtually useless, as the headphones and/or earbuds are now required for appliances. Due to this new regulation, inmate should be allowed to replace the headphones and earbuds as needed, keeping in line with the current special purchase procedures, of course.

ACCOMMODATION: *CDCR has amended CCR section 3190(i)(6) to include the purchase of headphones/earbuds. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENTER #7

COMMENT 7A: It is requested that fair consideration be given to permitting typewriter accessories via special purchase for the following reasons:

1. SHU inmates are only permitted one package per year, which raises two fundamental problems:
 - a. SHU inmates must acquire an extensive quantity of accessories to carry them for an entire year, which can strain property limits within the SHU.
 - b. The one-lump cost to purchase sufficient supplies to last one full year can be quite high and burdensome to inmates and their loved ones.
2. Currently only one of the approved vendors (Walkenhorsts) stocks sufficient and appropriate Swintec typewriter accessories, For SHU inmates with a Swintec typewriter, and who are allowed only one package per year, this means they must go to Walkenhorsts exclusively each and every year and may never acquire packages from other vendors.

RESPONSE: *The Authorized Personal Property Schedule does not place a limit on the quantity of accessories that can be purchased annually.*

COMMENTS #8

COMMENT 8A: My opposition is the proposed regulations ignores/neglects/deprives administrative segregation units (ASU) inmates of many and essential property. This is wrong. I know it is claimed that many ASU inmates are transferred out of ASU within approximately 45-days, but that is false. Many ASU inmates get stuck in ASU for months, if not years. Therefore these ASU inmates have to endure and go through hardships without their essential property. Many ASUs are cold therefore gloves, sweats, sweater, shoes, lip balm, lotion are essential to fight off the cold/freezing temperatures. Now we know how ASU and solitary torture the mind and without these essential properties, it tortures the minds even more. Staying clean is safe for the inmates, officers and personnel, which is why ASU inmates need to be able to get toothbrush holders, bowls, tumblers, etc. Also, colors and typewriters are needed to help ease the mind. I propose the ASU inmates be allowed to obtain gloves, sweats, sweater, shoes, lip balm, lotion, toothbrush holder, colors, bowl, tumbler, typewriter, etc., just as SHU inmates do.

An option is that inmates who are in ASU for longer than 60-days, then on the 61st day inmates should be eligible for all these properties. On the 61st day, an inmate being on ASU, he should be eligible for the same property as a SHU inmate.

RESPONSE: *In response to the recommendation of specific property items for ASU inmates, the CDCR will not accommodate this request. ASU housing is designed to be temporary with the intention that an inmate's privilege group will change upon committee action, therefore allowing more property.*

COMMENT 8B: Under precooked/reconstituted/dehydrated/instant foods, it talks about Beans, Rice, Chili, etc. But then when in the part where it says SHU, ASU, there is a zero and it is underlined and when things are underlined that means it is new in the text. So I believe that is a typo because we are allowed and there is no safety risk with that food and no security risk. Now I don't know if those beans are the refried beans, but that will be wrong for the refried beans to be deleted.

ACCOMMODATION: *CDCR has amended the Authorized Personal Property Schedule to allow this item for ASU/PSU/SHU. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENTS #9

COMMENT 9A: The Authorized Personal Property Schedule exemption process for individual institutions does not comply with the law, and allows institutions to perpetually maintain exemptions via memorandums.

RESPONSE: *The exemption process is detailed on page one of the Authorized Personal Property Schedule and involves an approval process and does comply with the law.*

COMMENT 9B: The Authorized Personal Property Schedule authorized possession of electric typewriters for SHU/PSU but not for non-disciplinary segregation inmates. It makes no sense to allow this item to inmates in SHU/PSU who have committed disciplinary offenses or who belong to a security threat group, but to deny it to an inmate who has not committed any offense and may be in segregation because he is related to a prison employee.

RESPONSE: *See Response to Comment 5B.*

COMMENT 9C: The Authorized Personal Property Schedule allows ASU/SHU/PSU inmates "14 colored pen fillers" but all the other General Population inmates are restricted to "4 Black/blue ink only" ink pens. It makes no sense to allow segregated and disciplinary prisoners in ASU/SHU/PSU the privilege of possessing colored pens, while denying the same privilege to disciplinary free general population inmates of a high privilege group. It violates fundamental equal protection values as well as common sense.

ACCOMMODATION: *CDCR has amended the Authorized Personal Property Schedule to allow 14 colored pens for General Population Inmates. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 9D: The Authorized Personal Property Schedule restricts "stationery" to white or primarily white, because the Department has forms on colored paper. This restriction is unlawful and it conflicts with Title 15 section 3134(a)(8) which allows colored paper required by court rules. There is no legitimate security concern in disallowing colored paper.

RESPONSE: *CDCR adopted this language in a continuing effort to enhance safety and security efforts, as allowing colored paper provides a means to mimic CDCR documents.*

COMMENTS #10

COMMENT 10A: Can Opener states (P-38 or equivalent) are permitted per the Warden's discretion. I would like to point out that on Page 41 Canned Goods states in part "Not permitted in Level IV." I am requesting that can openers be removed in its entirety from the Level IV Authorized Personal Property Schedule as this item does not pertain to any Level IV inmate.

ACCOMMODATION: *CDCR has amended the Authorized Personal Property Schedule to disallow a Level IV inmate the ability to possess a can opener, as Level IV inmates cannot possess canned goods. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 10B: Compact Discs state in part, “Possession of a player is not required.” Requesting that any such allowable items deemed to be an “Accessory to an Appliance” such as compact discs, headphones, AC adapters, etc. be contingent on ownership of the electronic appliance that the accessory would be used with and/or current privilege group. Allowing inmates to possess items such as compact discs, headphones, AC adapters, which will not function or be of any use to the inmate, will only be used as bartering tools by the inmate population. These appliance accessories are commonly used to create numerous forms of contraband including weapons that can be used against the inmate population and institutional staff. Also requesting that upon loss of privilege or loss of appliance, all accessories be surrendered as part of the electronic appliance, and purchase of accessory item requires proof of ownership of corresponding appliance. Placing such guidelines will assist institutional staff in establishing accountability to discourage theft and bartering of property of significant value or security interests.

RESPONSE: *It is CDCR’s intent to provide a means to keep the accessories, to include purchased compact disks, headphones, etc. in the event an inmate’s electronic appliance breaks, or is no longer functional. The inmate is allowed to retain accessories while awaiting the arrival of a replacement appliance.*

COMMENT 10C: Pencil Eraser. I am requesting that any “kneadable erasers” not be allowed as they are usually grey in color and can be easily manipulated in the cracks, joints of interior walls and ceilings to conceal items such as weapons, cuff keys, etc. within a housing unit.

ACCOMMODATION: *The Authorized Personal Property Schedule is amended to include restrictions on types of erasers for safety and security purposes. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 10D: Pencil Sharpener states “(Non-electric, hand held only. No metal cover. Maximum 2” length.) Use in Level IV facilities subject to approval of Warden.” I am requesting that this item be removed in its entirety from the Level IV Authorized Personal Property Schedule as this item contains a minimum of one (1) sharpened blade that can be utilized as a slashing type weapon on the inmate population and staff.

RESPONSE: *See Response to Comment 5B.*

COMMENT 10E: Chess states in part “Plastic pieces only.” Requesting additional requirements indicating all chess pieces be hollow with a maximum height, possibly 1 ½.” Solid chess pieces with no maximum height requirement can easily be fashioned into a stabbing type weapon in a matter of minutes.

RESPONSE: *CDCR is not aware of a significant need to implement chess piece specification other than the need for it to be constructed of plastic.*

COMMENT 10F: Dominos do not have any requirements. Requesting that pieces be constructed out of wood only. Allowing the 1” x 2” plastic pieces would provide inmates the opportunity to easily construct a stabbing type weapon that could be used on the inmate population and institutional staff.

RESPONSE: *CDCR is not aware of a significant need to implement Domino specifications.*

COMMENT 10G: Television Set states in part, “AC power or battery operated, portable models only. For battery operated televisions that use rechargeable battery packs, a maximum of two rechargeable packs facility physical plant limitations permitting.” I am requesting that battery operated televisions not be allowable to any inmate housed within Level IV. The Administrative Segregation Unit (ASU)/Security Housing Unit (SHU)/Psychiatric Services Unit (PSU) male inmates Authorized Personal Property Schedule indicates batteries are not allowed for inmate possession. For standardized reasoning, why allow inmates to purchase televisions that are not allowed throughout the entire institution? I am requesting that battery operated televisions be removed from the Authorized Personal Property Schedule.

RESPONSE: *Due to the varying institutional plant limitations, battery operated televisions are allowed to ensure that regardless of placement, inmates have equal access to the privilege of purchasing an entertainment appliance.*

COMMENT 10H: I am also requesting that institutions hold inmates accountable for all registerable property as mandated per California Code of Regulations (CCR) Title 15, Section 3191(b) Property Registration and Disposition, which states in part “Inmates are required upon request by institution staff to properly account for all registerable personal property registered in their name.” In order to properly account for an item(s) listed on a CDC 160-H, Inmate Property Control Card, and prior to the removal of any registerable personal property item(s) from a CDC 160-H, Inmate Property Control Card, and prior to any inmate receiving a duplicate registerable property item, would require the inmate to surrender the registerable personal property item, operational or not, in its totality in which it was originally issued by property staff (i.e.. to include all parts and components of the registerable personal property item) prior to the one-for-one exchange. Again this will assist institutional staff in establishing accountability to discourage theft and bartering of property of significant value or security interests.

RESPONSE: *See Response to Comment 5B.*

COMMENTER #11

COMMENT 11A: I am writing on behalf of the general population here at Pelican Bay State Prison regarding Notice of Change to Regulations #14-01. Despite PBSP issuing and posting the above notice, the administration has responded to our inquiries regarding its immediately ordered implementation by stating that it does not apply to PBSP. We would like to know if this new notice applies to the inmates and their property here at PBSP. Is it possible to get an order compelling PBSP to comply with these new regulations?

RESPONSE: *CDCR continues to work with institutional staff in their interpretation of the new Authorized Personal Property Schedule.*

COMMENTER #12

COMMENT 12A: This comment deals with restricting laundry detergent to, "Upon Warden's approval" and only "if inmate has access to a washing machine." Although perhaps seemingly minor and innocuous, the new restriction is anything but. Rather it imposes a substantial hardship on Level III and IV inmates in washing their personal clothing, was not made in good faith, is not legitimate, and if approved the CDCR officials behind it will chortle in evil glee.

Our authorized personal clothing includes boxers and briefs, tee shirts, socks, recreational shorts, thermals, sweat pants and shirts. All of which we have to wash ourselves since the institutional washing is limited to prison-issue clothing only. The preferred cleaning agent is laundry detergent because it is the most effective, easiest to use, and unlike soap, does not form scum with salts in hard water (which prison water is).

The main justification for the new restriction is that laundry detergent is not intended to be used without a washing machine. That is like saying that, because sidewalks are intended for pedestrians to walk on, tricycles, baby strollers, and wheel chairs should not be allowed on them.

Level III and IV inmates do not have access to washing machines, but have used laundry detergent for decades to wash their personal clothing, by adding it to:

1. A sink full of water;
2. A plastic 5-gallon bucket (temporarily issued by the cell block) full of water;
3. A personal plastic tub (sold as a storage container) full of water

And then putting in the dirty laundry and using one's hands sort of like the rotary blades of a washing machine.

A secondary justification is that "...adverse effects can occur if the product comes in contact with the body or eyes." That is specious. First, regular laundry detergent does not cause adverse effects when in contact with the body; i.e., the hands, and all cleansing agents have adverse effects when in contact with a person's eyes. Duh. Only laundry detergent with bleach actually fits that secondary justification, and that type of detergent is only permitted at those facilities which have washing machines, i.e., facilities housing Level I and II inmates and not Level III and IV inmates.

The prevalent laundry detergent currently sold in prison canteens (commissaries) is Slimline. A one pound bag is only \$1.65. It is distributed by Food Express USA, Rancho Dominguez, CA 90224, who can attest that there is no harm in using their product to manually wash clothes. "No harm, no foul."

To deprive Level III and IV inmates of laundry detergent with which to wash their personal clothes will impose a substantial hardship in keeping their personal clothing clean and thus in complying with the CCR, Title 15, Section 3061 on "Personal Hygiene." Most, and as some already do, would resort to using the Prison Industry Authority bar of soap that is supposed to be issued to us weekly. However, it does not totally remove the stink (unlike detergent) and any white clothing will become dingy looking over time. Bottom line, laundry detergent presents "no apparent security risk." As such, the proposed new restriction for its use to be "Upon Warden's approval" and then only "if inmates have access to a washing machine" is unwarranted.

RESPONSE: See Accommodation to Comment 4B.

COMMENT 12B: I possess a storage container and the locking tab/clip is "pliable/bendable plastic," not made of hard plastic (i.e., acrylic, high density polyethylene, etc.). As such, there is absolutely no security issue involved therewith. If the CDCR response is that "some" of those locking tabs/clips are made of hard plastic that is untrue. All that are available through approved vendors are made by the same company and have the same purple or lavender locking tabs/clips, varying only in size. Indeed these storage containers would not have been approved for sale to us in the first place if the lids were "secured" with a locking tab/clip made of hard plastic. Moreover, securing or removing such lids is much easier than the ones without locking tabs/clips, plus those without lids will sometimes crack when pulling them off its container.

RESPONSE: *This criterion was established to enhance safety and security by eliminating the amount of potential weapons stock using hard acrylic type plastic.*

COMMENT 12C: Prohibiting metal eyelets on tennis shoes for female prisoners is illegitimate. The PIA boots that prisoners statewide are issued and required to wear when working in the prison main kitchen, dining halls, and PIA shops/plants all have metal eyelets, which of course would not be the case if there was a security issue with metal eyelets. Why would CDCR want to prohibit them for the personal tennis shoes of female prisoners? For the same reason that CDCR has already prohibited metal eyelets on the tennis/athletic shoes of male prisoners, which is that the usable life of those personal shoes is shortened. Unlike the PIA boots made of thick, solid leather, the far majority of the leather tennis/athletic shoes available to prisoners from CDCR approved vendors are made of veneer, that is, paper-thin leather glued atop synthetic materials, which are not nearly as strong as solid leather. As such, the strain on one or more of the non-metal eyelets if the prisoner wearing the veneer tennis/athletic shoes is into jogging and/or playing basketball, soccer, handball, softball, etc. often causes it/them to tear. It is too late for the tennis/athletic shoes of the male prisoners. Do not let the CDCR ban metal eyelets from the personal shoes of the gals as well.

RESPONSE: *The Authorized Personal Property Schedule allows for metal eyelets on female offenders tennis/athletic shoes.*

COMMENTER #13

COMMENT 13A: I want to be clear in understanding these changes of regulations. For example, PBSP did not allow clear case beard trimmers. So does this mean that they are now authorized? The reason that I am concerned about this issue is because sharing the same grooming trimmers with all inmates can be hazardous. That is how people are exposed to diseases such as Hepatitis C and Herpes, etc. So I would like to have my own.

RESPONSE: *Currently clear case beard trimmers are authorized in accordance to the Authorized Personal Property Schedule, however, institutions may submit an exemption based on the direction given within the Authorized Personal Property Schedule.*

COMMENT 13B: I am concerned about Hot Pots because we need hot water to cook certain food items such as soups, coffee and food pouches.

RESPONSE: *See Response to Comment 5B.*

COMMENT 13C: I want to comment on the issuance of the packages. According to the DOM, the issuance of packages should be ASAP and no longer than fifteen days. However, here at PBSP, packages are issued no earlier than thirty days. By the time we get our packages, some of the food items are stale while other items grew mold. That cannot be healthy. Plus no one wants to buy stale and expired food items.

RESPONSE: *See Response to Comment 5B.*

COMMENTS #14

COMMENT 14A: Now that all Level II's and similarly situated inmates on Level II's are going to be allowed all the same property, does that mean Chuckawalla Valley State Prison inmates are going to be allowed televisions, chargers, lamps and other AC appliances? Are all the previous exemptions granted to Chuckawalla Valley State Prison under the new proposed changes going to be valid? Is the Warden at Chuckawalla Valley State Prison (Gonzalez) going to have to adhere to the proposed changes once they are implemented with the inmate population not having to experience "push-back" from Receiving and Release staff (e.g. you cannot have this until the Warden says you can)?

RESPONSE: *Chuckawalla Valley State Prison's exemptions remain in effect as reflected in the Authorized Personal Property Schedule.*

COMMENTS #15

COMMENT 15A: The proposed regulations require the earbuds/headphones to be "clear case only." There is no legitimate reason to require these devices to be clear. The clear case requirement was enacted for appliances so contraband could not be hidden inside the appliances. The earbuds and headphones are too small to secret any contraband, thereby alleviating that security concern. Furthermore, there is no legitimate reason to prohibit the headphones. "Consistency" is not a good enough reason to prohibit this item.

ACCOMMODATION: *CDCR has removed the clear case requirement for earbuds due to the lack of product availability. This change was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 15B: In the September 27, 2011, memorandum authored by then Undersecretary Scott Kernan as a result of the negotiations with the Short Corridor Collective, hobby items were authorized for all inmates. These items were authorized unconditionally as is shown in the memorandum which explicitly requires a disciplinary free year for photographs, wall calendars for purchase in canteen, and sweat pants in annual packages. The fact that these were specifically referenced in the same memorandum as the hobby items, and there is no conditions on said hobby items means what it says and inmates are authorized to possess hobby items (period). The requirement that they be purchased only in the canteen and a disciplinary free year and the limits are arbitrary restrictions and have no legitimate penological reasons.

RESPONSE: *See Response to Comment 5B.*

COMMENT 15C: There is also no reason to prohibit wood free pencils or pencil lead and erasers

RESPONSE: *See Response to Comment 5B.*

COMMENT 15D: Condiments are allowed for ASU/SHU/PSU inmates with a total of one. I request this oversight be corrected to "one each" as there is no reason to limit the dozens of condiments sold to one total as the prison canteens sell several condiments and has a limit of one each, thus through the prisons own canteen. Still inmates can purchase more condiments on a monthly basis that they can on a yearly package. The oversight, while seemingly minor, would have a tremendous effect on SHU inmates.

ACCOMMODATION: CDCR has revised the Authorized Personal Property Schedule from quantity of “1” to “Yes” to allow access to a variety of condiments for inmates in PSU/SHU. This change was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.

COMMENT 15E: Liquid Soap. There is no legitimate reason to prohibit liquid soap as they are the same as shampoo.

RESPONSE: *The Authorized Personal Property Schedule allows for liquid soap.*

COMMENT 15F: Mirror. The Department can sell paper mirrors.

RESPONSE: *See Response to Comment 5B.*

COMMENTS #16

COMMENT 16A: I have been incarcerated for approximately 35 years and I have seen many changes in this system. The new proposed regulations request no more speakers on televisions. It appears that in all adopted new regulations the structure is designed to target prisoners with an abundance of stricter, harsher, and/or punitive punishments as opposed to anything that vaguely resembles rehabilitation in any aspect, much less give an incentive for anything else. Why doesn't your office publish any positive regulation on behalf of or for prisoners as opposed to always taking something away and/or commencing some sort of punishment in the negative? There are many lifers who have been in this system for 20 to 50 years who have been consistent positive programmers, no rehabilitative means or support, and continues to have things taken away, deleted, etc. in a negative way. Why?

RESPONSE: *See Response to Comments 6A and 5B.*

COMMENTS #17

COMMENT 17A: Regarding amended section 3315, please further clarify disposal or loss of entertainment appliances based on an inmate's conduct. We are trying to clarify what entertainment appliances get taken when an inmate is placed on Privilege Group C by a classification committee.

RESPONSE: *As a deterrent to negative behavior, this change clarifies the expectation that the privilege of certain allowable property items is removed upon an inmate being placed into Privilege Group C. Once placed into Privilege Group C, the allowable property is addressed within the Authorized Personal Property Schedule.*

COMMENT 17B: I would like to know what wider array of personal property items the Department is allowing for a Special Needs Yard 270 Level 4 facility (e.g., clear case technology).

RESPONSE: *See Response to Comments 5B.*

COMMENTS #18

COMMENT 18A: Television sets for Level I, II and III Male Inmates: Walkenhorst offers two 15" flat screen televisions; one is 15.4" flat screen Hietker for \$190 and the other is 15.6" flat screen RCA

television for \$209. RCA is a better quality and longer lasting television. The size should be increased to 15.6 to allow inmates options and dissuade the monopoly of the Hietker brand

ACCOMMODATION: *CDCR has amended the Authorized Personal Property Schedule to reflect a maximum flat screen size of 15.6". This change was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 18B: Subsection 3190(k)(2) should specifically allow for inmates to keep their lamps, fans and calculators. These appliances are necessities. Calculators, if the inmate is enrolled in some form of education, should be specifically prohibited from being considered an entertainment property item and being required to be disposed of. The concern is without specification, the interpretation of entertainment property items are left to the discretion of the correctional officers. Further, it should be specifically stated that inmates placed on "C" status shall only be required to dispose of their property after attending a committee hearing. This will prevent any abuse of power and provide inmates with adequate protections.

RESPONSE: *Upon placement in Privilege Group C by the Classification Committee, the inmate shall be afforded the allowable property identified by the Authorized Personal Property Schedule for Privilege Group C.*

ACCOMMODATION: *Text is revised in CCR section 3190(k)(2) to clarify the disposition of property related to Privilege Group C status. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENTER #19

COMMENT 19A: One of the biggest concerns seems to be with the hygiene restrictions, namely the antiperspirant restriction. What needs to be understood is that over two thirds of the inmate population uses the solid antiperspirant type of deodorants. I myself am allergic to the gel type deodorant; it burns my skin and creates a rash. A large number of inmates share the same affliction. The fact that no company offers a clear or see-through solid antiperspirant, are we then expected to forego our hygiene? We do not understand this expectation and ask that we be allowed once again to obtain these needed items and maintain our hygiene to standard.

ACCOMMODATION: *CDCR agrees and the Authorized Personal Property Schedule is revised to remove the requirement of a clear container for deodorant/antiperspirant, thus allowing a greater variety of available products to meet the needs of the inmate population. This change was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENTER #20

COMMENT 20A: I take issue with the fact these regulations as with the current regulations limit prisoners to three electric appliances, and with what are considered electric appliances. Walkman radios and CD players that operate with batteries should not count as an electric appliance. Battery operated radios do not plug into a wall socket, so why should they be counted against one of the three appliances?

RESPONSE: *The three electric appliance limit is current language that was adopted in 2008 pursuant to the Administrative Procedure Act. Additionally, see Response to Comment 5B.*

COMMENT 20B: Fans, even though they plug into a wall socket, should not count as in some areas of California, such as here at Corcoran during the summer, a fan is a necessity.

RESPONSE: *See Response to Comment 5B.*

COMMENT 20C: I take issue with being forced to purchase only clear appliances. When I compare the prices between clear and non-clear appliances, the difference is extreme in that clear appliances cost 100% more than non-clear appliances. Why not designate vendors that can sell non-clear appliances?

RESPONSE: *CDCR will continue to enforce clear technology in the ongoing effort to enhance safety and security measures. Furthermore, CDCR will ensure vendors are held to median price in all of the products offered.*

COMMENT 20D: With regards to certain items of property, while they are allowed at all prisons, it is also up to the "Wardens Discretion" as to whether a particular prison will allow the item. One example is extension cords with circuit breakers, although there are others. If you have an extension cord at one prison, you should be allowed to have it at all prisons. And it should not be at the Warden's discretion. This goes for all property. For a Warden to tell me I cannot have an item of property that is allowed at the other a prison violates my equal protection rights and I would challenge this.

RESPONSE: *Warden's discretion is provided to allow specific institutions to determine the ability to provide the identified property taking into account, but not limited to: physical plant limitations, site specific security concerns, inclement weather, and medical and mental health needs of inmates.*

COMMENT 20E: I take issue with being limited to ten books/magazines. As long as my property does not exceed 6-cubic feet, what difference does it make how many books and/or magazines a prisoner has? Prison administration calls this the California Department of Corrections & Rehabilitation. Keeping rehabilitation in mind, legitimate self-help books and material should not count against the ten book/magazine limit. Neither should educational books, such as dictionaries, etc.

RESPONSE: *The restriction does not apply to library books, which an inmate can check out from the library, nor does it limit books, and legal material.*

COMMENT 20F: I take issue with food being counted against the six-cubic feet of property. If a prisoner goes to canteen and spends the maximum canteen draw amount for privilege group A, the canteen he buys could come to 6-cubic feet.

RESPONSE: *See Response to Comment 5B.*

COMMENT 20G: I take issue with the fact that woman prisoners can buy items that male prisoners cannot have. For example, real sugar and items with sugar in them. I seriously doubt that women prisoners do not make and drink "pruno." If this were "rehabilitation" as in CDC "R," instead of taking away from those prisoners who behave and program when a prisoner misbehaves, you take away from only the prisoners who refuse to adhere to the rules. I know this could be done if CDCR wanted to do this. I do not like being punished in any way, shape or form, for actions of other prisoners who misbehave. I take issue with the fact that women prisoners are able to purchase and have items such as jeans, ear plugs, and clocks with alarms. Why can't male prisoners have these items?

RESPONSE: *The CDCR has been working aggressively in the area of female offender reform and rehabilitation, identifying those areas that have been shown to positively affect the outcomes for female offenders, reduce the recidivism rates, and increase their successful reintegration into society. In October 2007, California enacted Penal Code Section 3430, which, in part, requires the Department to “Create policies and operation practices that are designed to ensure a safe and productive institutional environment for female offenders.” Female offenders who are programming effectively increase the safety and security of the prisons and become productive workers within the institutional workforce, thereby increasing their self-esteem, rehabilitative outcomes and improving the female offender’s chances of a successful re-entry.*

The Department has tailored its Authorized Personal Property Schedule for female offenders to promote a positive environment suited to them and to reduce the possibility of recidivism when they are eventually paroled into the community. Females come into the criminal justice system via different pathways; respond to supervision and custody differently; exhibit differences in terms of substance abuse, trauma, mental illness, parenting responsibilities; and employment histories; and represent different levels of risk within both the institution and the community. To successfully develop and deliver services, supervision and treatment for female offenders, we must first acknowledge these gender differences. A safe, consistent, and supportive environment is the cornerstone of a corrective process. Because of their lower levels of violent crime and their low risk to public safety, female offenders should, whenever possible, be supervised and provided services with the minimal restrictions required to meet public safety interests.

Turner v. Safley 482 U.S. 78, 89 (1987) established that “when a prison regulation impinges on inmates’ constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests.” The Department’s prescribed property allotment for female offenders furthers the legitimate penological interests to create a gender-responsive programming that will better serve the needs of the female inmate population.

Because of real differences between male and female inmates, courts tend not to view these inmate populations as being similarly situated for the purposes of the services or privileges that they receive in prison. “Female inmates as a class have special characteristics distinguishing them from male inmates, ranging from the fact that they are more likely to be single parents with primary responsibility for child rearing to the fact that they are more likely to be sexual or physical abuse victims. Male inmates, in contrast, are more likely to be violent and predatory than female inmates.” Klinger v. Department of Corrections, 31 F.3d 727, 731-32 (8th Cir. 1994). Prison systems may accordingly assign different personal property requirements to account for these gender differences. An Equal Protection violation will be found to occur only when there is intentional or purposeful discrimination by the state. Personnel Administrator of Massachusetts v. Feeney, 442 U.S. 256, 274 (1979).

The issue of increased property for female offenders is not the act of intentional discrimination. To successfully develop and deliver services, supervision and treatment for female offenders, prison systems must first acknowledge the gender differences between men and women inmates. A safe, consistent, and supportive environment is the cornerstone of a corrective process. Because of their lower levels of violent crime and their low risk to public safety, female offenders should, whenever possible, be supervised and provided services with the minimal restrictions required to meet public safety interests. It is lawful for these reasons for the Department to permit increased personal property for female inmates.

COMMENTS #21

COMMENT 21A: The proposed regulation fails to provide any evidence of the need for a change in the regulation within the Initial Statement of Reasons (ISOR). Government Code section 11346.2(b) requires the ISOR to include, but not limited to all of the following:

1. A statement of the specific purpose for each adoption, amendment, or repeal and the rationale for the determination by the agency that each adoption, amendment or repeal is reasonably necessary to carry out the purpose for which it is proposed. Where adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of reasons why the agency believes these mandate or prescriptive standards are required,
2. An identification of each technical, theoretical, and empirical study, report or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation.

The CDCR prepared an Initial Statement of Reasons, but did not fulfill the above mentioned requirements.

The CDCR indicates that "revisions to the text of the regulation are explained below under the heading, specific purpose and rationale for each section per Government Code 11346.2(b)(1)." Indeed the revisions to the text are in the place of specific purposes and rationale. Thus the proposed regulation clearly must fail.

RESPONSE: *The CDCR has followed the requirements as outlined in the Administrative Procedure Act and this is affirmed by OAL's approval of this rulemaking action.*

COMMENT 21B: The CDCR points to no evidence to base its need to amend the regulations. Amended sections 3190(k)(1) and (2), there is no evidence that physical limitations are overburdened, nor why placement in Privilege Group C pursuant to a disciplinary action pursuant to subsection 3315(f)(5)(L), requiring disposal of an inmate's entertainment appliances and musical instrument, is necessary or benefits anyone. Indeed, it will likely result in literally thousands of useful appliances being destroyed and stored or dumped in California prison's physical/plant property or local dumps costing the State and the environment thousands, if not millions, of dollars unnecessarily. Worse yet is the loss of all of an inmate's property per amendments to Title 15. Considering literally over two thousand inmates per year are subjected to the guilty finding and these consequences, it is more likely than not the Department will incur liability and significant costs associated with appeals, holding and disposing of inmate property, tort claims, lawsuits, and violent inmates. This will result in costs to the State and private persons and tax payers.

RESPONSE: *See Response to Comment 5B and Accommodation to Comment 18B.*

COMMENTS #22

COMMENT 22A: Presently CDCR does not allow inmates to possess television remotes. When wireless remote controls were first developed for consumer use back in the 1960s, they were very rudimentary devices using radio frequency (RF) transmission to control but a few features on the television, usually the power and channel/volume control. Over the decades that followed, a host of additional features were added to the remotes, and the basic transmission technology changed from using analog radio frequencies to digital infrared (IR) light signals in order to support the additional remotely controlled features. With the change from using radio signals to IR light to control the television sets, the remotes were able to considerable expand the features they were able to control on

the television sets. With the advent of flat-screen televisions and the conversion of the U.S. television broadcast system to an all digital format back in 2006, consumer televisions experienced another expansion of features and capabilities. Today's remote controls allow access to much more than simply turning the television sets on/off or changing the channel/volume. In fact, due to the convenience and ease of use of these remote controls, television sets manufactured today are designed in such a way that many of the new features available on these sets can only be accessed and utilized via the remote. Manufacturers have designed all of their new televisions to be primarily controlled via the remote and have purposely limited the few control buttons they still provide on the console of the television set itself.

The CDCR has established specific technological guidelines adapted to a correctional setting for all television sets offered through approved State vendors for purchase by inmates housed under the Department's control. Generally, these units must be basic television sets, without any transmission or data storage capabilities other than being able to receive standard broadcast or cable NTSC/ATSC television programming signals, and encased in clear plastic cases. These televisions are typically OEM (original equipment manufacturer) consumer products which are repackaged in clear cases, and offered to the correctional market. The remote controls for these units are oftentimes repackaged into clear cases as well, and sold with the television sets to those inmates permitted remote controls in other jurisdictions. Since CDCR does not permit its inmates to purchase or possess television remotes, approved State vendors are required to remove the remote control units from the television packages prior to shipment to inmates incarcerated in California State prisons.

CDCR has historically prohibited inmates from possessing television remote controls since these units first became available for consumer use. This prohibition was, ostensibly, based on several assumptions and concerns which are no longer operant under present technologies, and should, therefore, be revisited to determine if inmates under the Department's custody could now safely be permitted to possess remote controls for the inmates' television sets. There are several arguments for and against inmates being allowed to possess these television remotes.

Arguments in support of permitting possession include:

- Access to additional permitted features not otherwise available via the console buttons on the television set itself.
- Use of the remote control instead of constantly using the buttons on the set console results in considerably less failure of console buttons; which is the real problem, because once the console buttons start to fail, the TV becomes very difficult to operated without remotes.
- Increased ease of use for aging inmates and those with visual and mobility impairments.
- Allowance of television remotes and other wireless gaming controllers in other jurisdictions has not resulted in any significant reported problems.

Arguments against permitting possession include:

- Two security concerns were identified. One related to the possibility that a television remote control could be used to remotely operate an inmate-improvised dangerous device. The second concern related to the possibility that the television remotes could in some way interfere with other security systems at the Department's facilities such a Personal Alarm Devices (PADs) or other equipment.
- A remote control could be used to conceal contraband.
- Television remote controls are unnecessary in the small environment of a typical prison cell. An inmate can simply reach over a few feet and use the control buttons on the TV set console.

Following is a discussion of the above merits and potential concerns associated with allowing inmates to possess television remote control units.

Pros

Feature Access - With the advent of digital TV, an increasing number of features have been added to the remote controls. It was simply not feasible or practical for TV manufacturers to add all of the control buttons on the TV set consoles as could be found on the remotes; therefore, remote controls have become the primary means for controlling today's televisions. Indeed, remote controls now access common TV features that cannot even be accessed from the console controls. Two good examples of this limitation are the On-Screen Program Guide and the Secondary Audio Programming feature which can only be accessed using the remote control.

Console Button Overuse - Manufacturers recognizing that consumers have adopted using the remote controls as the primary means to operate their televisions, have limited both the scope of the buttons located on the actual TV console, as well as using weaker, poorer-quality buttons because they expect these buttons to be rarely used. The problem then comes in the prison setting where inmates do not have access to remotes, so they are required to exclusively use the console buttons. This results in premature failure of the console buttons rendering the television either very difficult to use or effectively inoperable as the buttons must be pushed several times to get them to operate at all. Eventual failure of the console buttons due to overuse, outside of their designed usage level, approaches 100%. Indeed, the State-approved TV vendors would be the first to acknowledge the high service and return rates associated with worn-out console buttons.

Ease of Use for Impaired Inmates - As the inmate population continues to age, it becomes increasingly difficult for these elderly inmates, as well as those with mobility and/or vision impairments to reasonably reach and operate the buttons located on the console of the television sets; having to frequently get up and down to make any adjustments on the TVs. Use of a remote control removes this issue entirely.

Established History of Safe Use - Television remote controls have been allowed in a variety of other correctional settings in jurisdictions outside of those under the control of CDCR for years without any significant security problems reported. Specifically, California Out-of-State Correctional Facilities (COCFs) in Arizona have permitted inmates to possess and use both television remote controls as well as wireless remote video game controllers for years now with no significant security problem reported. The devices have therefore developed a proven safety record in a variety of correctional settings.

Cons

Arguments against inmates being allowed to possess or use remote controls have typically related whether to perceived security concerns, or the outdated opinion that remotes were simply not needed in the limited environment of a prison cell and were therefore more of a luxury to which inmates were not entitled.

Security Concern #1 - There is a concern that a television remote control unit could somehow be adapted to remotely control an inmate-improvised dangerous device. While the knowledge to develop such a device might be accessible to a determined inmate, the tools, and special equipment to actually complete such a sophisticated device would be difficult to acquire and use in a correctional setting. Again, during all the time that remote controls have been permitted at COCF institutions, as well as in other jurisdictions, there have not been any reports of any such devices actually being employed, nor evidence that such devices were being developed.

Security Concern #2 - A second safety argument relates to the concern that use of the television remote control might, in some way, interfere with the safety and security systems within an institution. As referenced earlier, today's television remote controls operate by emitting a weak, infrared light signal from a small Light-Emitting Diode (LED) located in the front of the remote. This signal is invisible to the human eye, and is so weak that the remote must typically be within close proximity, a matter of several feet, from the receiving television set which has a light-receiving sensor on the front of the television console. These remotes emit no other signal, other than these weak infrared light pulses. No security or safety system currently employed in a CDCR correctional institution utilizes this type of light-signaling system. Most notably, the Personal Alarm Devices (PADs) carried by correctional staff in designated 'hot zones' utilize RF signals, very much like garage door openers, which emit these RF signals to receiver units located throughout the facilities. No television remote controls presently being offered with the consumer TV solely to inmates utilize RF signals. The two systems are completely incompatible, and no amount of modification to the television remote control could allow it to interfere in any way with the PADs. This is therefore an entirely moot argument against permitting inmates remote controls.

Security Concern #3 - The remote controls could give inmates another place in which to conceal contraband. While this might be marginally true, most of the televisions being offered for sale in the correctional market come with clear-case remote controls, so they can easily be inspected. Other devices and items would likely be more suitable for concealing contraband, as television remotes are typically very small and are made in as compact a manner as possible for ease of consumer use. This argument is simply not a substantial concern for these reasons.

Lack of Need - Traditionally it has been thought that allowing inmates to possess television remote controls represented an unnecessary luxury which was simply not needed by inmates housed in an institutional setting. It was thought that inmates, who lived in a 6' x 10' cell, with a television set located only a few feet away, simply did not need a remote; they could reach up and change the channel from their bed, etc. What has changed is the technology. Today's digital television manufacturers expect users to utilize the remote controls to operate their televisions. They have designed features which can only be accessed via the remote controls, and have purposely engineered the remaining buttons on the actual television consoles to be used only infrequently, and then for the basic functions only: power, channels, and volume.

Conclusion - When remote controls first came out back in the 1960s, there were legitimate concerns against inmates using television remotes. Initially these were not seen as needed by inmates in celled setting because an inmate could simply reach up to the TV and perform the same functions using the console buttons (power, channel change, or volume adjustment) as were available on the remote. However, times have changed and today manufacturers have specifically developed additional (CDCR approved) features and functions into their digital televisions, with many of those features/functions only accessible from the remote control. Moreover, recognizing the utility and almost universal sole use of the remote controls by consumers, manufacturers have left only a few actual control buttons on the television consoles themselves. These control buttons have only limited functionality and are specifically not engineered for routine daily use. This has resulted in almost 100% full or partial failure rate on those console buttons for televisions used by CDCR inmates who do not have access to using the better designed buttons on the remote controls. Second, the old-style remote controls of the 1960s-1980s used RF signaling, so there was a concern that the old remote controls might interfere (or could be adapted to interfere) with some of the RF-controlled safety and security devices within the institutions. This is no longer a concern because all of the television remote controls available with today's digital

television sets utilize weak, infrared light signals to control the TVs; a completely different and incompatible signaling system than used by any safety/security devices in CDCR institutional setting. Finally, there was a perceived security concern that these wireless television remote controls posed a potential threat because they could possibly be adapted to use as a control device for some inmate improvised dangerous device. However, years of experience at the CDCR's own COCF facilities in Arizona demonstrate that this concern is perhaps overblown. No evidence has been developed at these facilities that the television remote controls have ever been used for such a purpose. Indeed, these institutions have not had several years of experience allowing inmates to utilize these television remote controls with no significant adverse effects to the institutional operations of security.

Based on all of the above, especially the body of experience and history of safe use at the CDCR - COCF institutions, it would appear that a reconsideration of the Department's policy prohibiting inmates from possessing television remote controls might be warranted and appropriate.

RESPONSE: *CDCR appreciates the comprehensive effort that went into this comment. CDCR will consider the inclusion of remote control devices during the next revision/update to the Authorized Personal Property Schedule in accordance to CCR, Title 15, Section 3190(b).*

COMMENTS #23

COMMENT 23A: The Authorized Personal Property Schedule allows earplugs for female inmates but does not permit earplugs for SHU inmates despite a great need for such protection due to increased level of noise in the SHUs. The need is particularly acute at Pelican Bay due to lack of closed solid doors and inmates close proximity to the pod electronic gate which opens and loudly slams shut every hour during sleeping hours.

ACCOMMODATION: *CDCR has amended the Authorized Personal Property Schedule to add "soft foam earplugs" as an allowable item. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 23B: Imposing permanent loss of appliances (disposal) on inmates in segregated housing due to program failure status creates a risk of adversely impacting inmates' mental health including increasing suicide potential. Studies show that inmates held in segregation have the greatest risk of suicide.

RESPONSE: *The Classification Committee, as defined in Title 15 Section 3376, considers the totality of circumstances when placing inmates into Privilege Group C, and considers the mental health needs of the segregated inmate when rendering a decision.*

COMMENT 23C: CDCR fails to point to any studies or data that supports that prolonged deprivation of appliances (sensory deprivation) due to program failure status will not adversely affect segregated inmates' mental health.

RESPONSE: *See Response to Comment 5B.*

COMMENT 23D: The permanent deprivation of appliances due to program failure conflicts with the existing language in section 3315(f)(5)(L) by subjecting inmates to double punishment utilizing deprivation of appliances. The deprivation tends to be permanent as televisions and other appliances are expensive and most inmates are indigent and cannot afford to replace appliances. First the inmate is

subjected to immediate loss of appliances upon a finding of guilt on a rule violation. Then if he is later deemed a program failure he will then be punished again with permanent loss of appliances when he attends his periodic classification committee review. Current CDCR policy allows the disciplinary hearing officer to start the loss of appliances deprivation period immediately upon a finding of guilt.

RESPONSE: *There is no apparent conflict in this proposed language. The loss of appliances upon a finding of guilt is temporary, whereas the Committee action makes final determination of "Program Failure" and may determine allowable property in accordance to the Authorized Personal Property Schedule, and other mitigating factors.*

COMMENT 23E: The proposed regulation fails to provide any criteria to guide the classification committee's discretion in imposing program failure status on inmates to ensure uniform application of the status. There should be mitigating and aggravating factors the classification should consider as committees do in imposing SHU terms.

RESPONSE: *See Response to Comment 23B and 23D.*

COMMENT 23F: The proposed regulation is unfair in that it subjects inmates to a punishment that continues past the period that the inmate is deemed program failure as most inmates cannot afford to replace the disposed of appliances.

RESPONSE: *Appliances are a privilege and as such are subject to Title 15, Article 5, Inmate Discipline.*

COMMENT 23G: The proposed regulation creates an unfair disparity as inmates deemed a program failure and sent to a Behavior Management Unit are no longer required to dispose of their appliances. BMU inmates' property is held until completion of the program.

RESPONSE: *See Response to Comment 5B.*

COMMENT 23H: The proposed amendment to increase disciplinary punishment for ASU/PSU/SHU inmates by deeming them "program failures" appears to conflict with previous rulings and the parties' agreement in Coleman vs. Brown that inmates in segregated housing should be allowed access to appliances to protect against possible mental deterioration and/or suicide. Permanent loss of appliances creates an unreasonable risk of mental decomposition and suicide due to increased sensory deprivation.

RESPONSE: *See Response to Comment 5B.*

COMMENT 23I: CDCR fails to point to any studies or data that indicate that permanent deprivation of appliances will not affect segregated inmates' mental health in an adverse manner. The deprivation for most inmates will be permanent as most inmates are indigent or have insufficient funds to replace appliances

RESPONSE: *See Response to Comment 5B.*

COMMENT 23J: The program failure amendment conflicts with existing language in section 3315(f)(5)(L) and imposes double punishment for the same rule violation. An inmate found guilty of a rule violation is subject to immediate loss of appliances for up to 90 days. When he goes to his periodic classification review, he will then be subjected to permanent loss of appliances for the same rule

violations he previously was subjected with a punishment of temporary loss of appliances. When an inmate is found guilty of a rule violation, the disciplinary hearing officer orders the inmate's punishment to be immediately carried out including temporary loss of appliances.

RESPONSE: *See Response to Comment 23D.*

COMMENT 23K: The amendment is unfair, as CDCR has just promulgated security threat group (STG) gang regulations that add dozens of categories of rule violations to existing categories. This will increase the number of inmates who are eligible for program failure status.

RESPONSE: *See Response to Comment 5B.*

COMMENT 23L: The proposed amendment invites arbitrary assignment to "program failure" status as the proposal contains no criteria to guide the classification committee's discretion in deciding whether to impose program failure status on an eligible inmate. There should be aggravating and mitigating factors similar to what is used to impose SHU terms (see Title 15 section 3341.5(c)(10)). This will assist in creating uniform application.

RESPONSE: *See Response to Comment 23B.*

COMMENT 23M: The new Authorized Personal Property Schedule does not allow SHU inmates to purchase earplugs despite the need for such noise protection. For example, at Pelican Bay State Prison, staff enters each pod once every hour during sleeping hours to conduct a visual check/count. This involves opening and closing an electronically operated metal door which is extremely loud and wakes inmates up. Medical staff will tell you this is a problem many inmates attempt to relieve by stuffing toilet paper in their ears which often gets stuck requiring medical intervention. Female inmates are approved for earplugs showing there is no safety or security issue involved.

RESPONSE: *See Accommodation to Comment 23A.*

COMMENTS #24

COMMENT 24A: Submitting a possible addition of text to Section 3190(f) to clarify the amount of property an inmate can have. Please consider adding after "maximum dimensions of 24x24x24," the following, "...is in addition to the combined volume as stated in 3190(c)." Because upon arrival of a vendor package of up to six cubic feet, an inmate's total combined property volume may temporarily exceed the six cubic foot limit of 3190(c).

RESPONSE: *CDCR is electing to not adopt the proposed language, as it would allow more items than what is permitted. Although food items can be ordered through approved vendors, so too can clothing, electronic devices, and other items. The proposed language would allow a method to possess more tangible property than the allowable six cubic feet.*

COMMENTS #25

COMMENT 25A: Even though the Department is approving numerous items that we were not allowed in the SHU (e.g., food pouches, hot sauces, and spices, and new items such as bowls and cups, etc.), they are either not being provided to be ordered in the canteen, or are not notifying the package vendors.

RESPONSE: CDCR provides the approved vendors, as well as the Department's canteens with the recently adopted Authorized Personal Property Schedule.

COMMENT 25B: The new property matrix regarding the allowed clothing and two entertainment appliances do not have a clear structuring on how we are allowed to get it and it is leaving it up to the Warden/property officer's discretion to not allow us to receive approved items. By putting restrictions on having to wait a full year to receive two separate appliances and/or restricting items due to 115s being issues, which the new rule changes do not stipulate such discretion.

RESPONSE: See Response to Comment 5B.

COMMENT 25C: The newly enforced regulation dealing with "no speakers" for appliances is understandable but this should also allow us to order headphone extensions and splitters for headphones for allowing two inmates to be able to listen to the appliance at the same time.

ACCOMMODATION: CDCR has amended the Authorized Personal Property Schedule reflect the allowance of audio extensions and splitter. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.

COMMENT 25D: Because rule changes do not first have an outline of what we are allowed to have or have not, but should be clear in how the regulations will be implemented so that not only can these rules be uniform throughout all of California institutions but they should be able to be followed to make sure there is no misinterpretations and those officials who refuse to follow said procedures will be held accountable. Since this does have an adverse effect on the community, the inmates, and loved ones who trust the Department to fulfill these agreements and upholding all regulations. Not just the ones they choose to follow that benefit them.

RESPONSE: See Response to Comment 5B and 11A.

COMMENTER #26

COMMENT 26A: I am currently housed in Pelican Bay State Prison SHU. This revised edition of the Authorized Personal Property Schedule states the following items allowed in SHU, 1. Headphones, 2. Pencils, 3. Photo Albums (soft plastic), 4. Compact discs. The Notice states these items are allowed regardless of institutions. Under the listed exemptions for Pelican Bay State Prison, these items are not listed. Currently Pelican Bay State Prison is not honoring the regulations that have been in effect since January 8, 2014. My family has paid good money for these items of property that are not being given to me. Even though the regulations say it is allowed. So can you please help me and let me know if I misunderstood the Notice, or if it is true and correct.

RESPONSE: See Response to Comment 11A.

COMMENTER #27

COMMENT 27A: It is prudent that you seriously reconsider the rule change that limits inmates to purchase televisions without speakers. As a hearing impaired inmate, I utilize my headphones while watching television. While watching TV and using my headphones, I cannot hear any announcements made on the public address (PA) system. My cellmate has to inform me when my name is called, or what is spoken on the PA system. In the event that all inmates must utilize their headphones, the use of

PA system will be moot. Due to the restriction of hearing by headphones, all inmates will not be able to hear announcements or addresses. This will put me and other ADA inmates with hearing loss at an extreme disadvantage. Please take into consideration my point of view. All inmates should be able to hear all addresses on the PA system and it is my opinion that this will prevent that.

RESPONSE: *See Response to Comment 6A.*

COMMENTS #28

COMMENT 28A: Very few manufacturers currently produce clear earbuds, so the availability of clear earbuds is very limited. In order to ensure that inmates are provided with the largest possible selection of earbuds, we would suggest that non-clear earbuds continue to be allowed. We are unaware of any specific security concerns with non-clear earbuds.

RESPONSE: *See Accommodation to Comment 15A.*

COMMENT 28B: Regarding hair gel for men. According to the current restrictions set by the Authorized Personal Property Schedule, hair gel is allowed for women but is not allowed for men. We have received multiple concerns from inmates regarding this policy. Many inmates indicate they are unable to use the current selection of styling products because they believe the allowed styling products are only useful for specific ethnicities. The inmates indicate that the hair greases and oils are not appropriate for their hair. We would suggest that hair gel be allowed for men and we are unaware of any security concerns with hair gel.

ACCOMMODATION: *CDCR recognizes the need to allow additional hair products, and has added Gel and Pomade to the allowable property. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 28C: We would suggest that the size limit for shampoo and conditioner be increased from 20 oz. to 22 oz. By increasing the size limit to 22 oz. would allow us to increase our selection of clear container shampoos and conditioners. We do not believe that increasing the size by 2 ounces would cause any security risks.

RESPONSE: *CDCR elects to maintain the maximum of 20 oz. as space is limited in celled housing.*

COMMENTS #29

COMMENT 29A: CDCR appears to have begun enforcing these proposed regulations pursuant to the emergency provisions of Penal Code 5058.3, although the NCR does not include the required director's written statement certifying operational necessity. Emergency adoption is not warranted. CDCR originally attempted to implement the most significant aspects of this NCR (such as speaker restrictions) five years ago by instructing vendors to cease offering these items, and they complied accordingly with their July 2009 catalogs. CDCR then apparently rescinded this memo (likely because it violated the APA) and vendors began offering speakers in TV sets again. There is no conceivable justification for emergency enforcement of regulations that were tried and abandoned five years ago, and for which CDCR has taken at least two years to prepare for without needing to enforce.

RESPONSE: *See Response to Comment 21A, additionally the required Certification of Operational Necessity is included in the official rulemaking file.*

COMMENT 29B: In the NCR, CDCR claims that the new regulations "will not have a significant economic impact on business" and that "this action has no significant adverse impact on small business because they are not affected by the internal management of State prisons." This claim is clearly false with respect to the instant regulation change. Inmate package vendors, most or all of which are California small businesses, are obviously affected by inmate property regulations. In particular, the capricious misuse of the emergency provision has caused the vendors to issue catalogs that become obsolete just eight days into their six-month cycle, and likely left these businesses with thousands of dollars in unsalable stock (e.g., TV sets with speakers). Clearly this is a significant adverse economic effect. Responsible application of new regulations would allow vendors enough prior notice to issue updated catalogs and close out inventory to be disallowed, unless an actual emergency existed. In this case, the Authorized Personal Property Schedule is dated 10/1/13; this likely would have been sufficient time. Please explain why this impact was not documented per the APA and why steps to avoid it were not taken.

RESPONSE: *Although this emergency regulation may have impacted the current inventory of a particular vendor's stock, they had the ability to work with the manufacturers to change or modify their physical inventory. Although the catalogs could not be revised regarding televisions without speakers, the vendor's websites were updated promptly. Additionally, the CDCR has not received any adverse reaction or complaints from vendors.*

COMMENT 29C: Several items are permitted based on "Warden's Approval" (e.g., storage containers, coaxial cable, canned goods, etc.). These individual facility approvals or disapprovals must be enumerated in the Authorized Personal Property Schedule, in a similar manner as the "granted exemption requests." This is necessary to provide inmates, their families, and vendors with information as to what is permitted at the inmate's institution or institutions to which they may be transferred.

In addition, such documentation is required to comply with the APA. If any two Wardens make the same disapproval decision, the single prison exception to the Administrative Procedure Act in Penal Code section 5058 no longer applies. If this were not the case, CDCR would not have been required to adopt standardized property schedules in the first place; all property would be subject to institution approval without public notice.

It should be noted that these disapprovals are distinct from exemption requests in that they are not subject to Standardized Procedures Unit approval; they simply need to be incorporated into the next semi-annual Authorized Personal Property Schedule update. Any discretionary items should be permitted unless specifically disapproved, to encourage institution compliance with these procedures.

RESPONSE: *CDCR will consider this inclusion during the next revision/update to the Authorized Personal Property Schedule in accordance to CCR, Title 15, Section 3190(b).*

COMMENT 29D: New regulations properly establish a five-day deadline for filing exemption requests for locally imposed restrictions, but do not require that such notice be provided to inmates or vendors, or impose any penalty for failure to comply. Additionally, there is no time constraint for review by SPU. This will lead to more abuse such as occurred at SVSP in 2007-2009 when rogue officers fraudulently claimed that an exemption request for soft candy, pasta, icing on cupcakes, etc. had been filed. No Notice was ever posted to the inmate population and the restriction was selectively enforced, resulting in hundreds or thousands of dollars in losses to inmates and their families - and many more thousands to CDCR in costs for processing inmate appeals and legal fees. Regulations should require that institutions post Notice of all local exceptions until they are incorporated into the Authorized Personal Property

Schedule or disapproved and rescinded, and require that the SPU make a decision and promulgate a new Authorized Personal Property Schedule within six months. Additionally, the institution should be responsible for return postage of any restricted items ordered prior to posting of the notice.

RESPONSE: *See Response to Comment 29C.*

COMMENT 29E: ASP has rescinded its exemptions for AC appliances, TV screen size, and batteries. It is important that the "Granted Exemption Request" section is kept up to date, as inmates, their families, and vendors rely on it when deciding what property to purchase or offer. Please correct the ASP exemptions section.

ACCOMMODATION: *ASP'S exemptions are revised on the Authorized Personal Property Schedule. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 29F: The prior Authorized Personal Property Schedule was not adopted per the APA. While this NCR does correctly contain an ISOR for each Authorized Personal Property Schedule entry being changed (although it does not always fully address the restriction at issues) this does not appear to have been the case for the original 2007 Authorized Personal Property Schedule. For example, I have been unable to find an ISOR justifying restriction of TV remote controls, alarm clocks, memory typewriters, rain suits (as opposed to ponchos), etc. These property restrictions were never properly justified, as they are now being readopted in a new Authorized Personal Property Schedule revision, an ISOR entry must be completed for each restriction not previously addressed.

RESPONSE: *See Response to Comment 21B.*

COMMENT 29G: Regulations, such as Title 15 3190(k)(1), should be amended to specify that when an inmate's existing appliances are unusable due to transfer to a facility with physical plant limitations (e.g., no AC outlets), he or she shall have the option of retaining them without the ability to operate them, or to have the institution store them, pending transfer to a facility where they are usable. This is necessary to prevent violation of inmates' due process property rights during temporary and/or non-adverse transfers to facilities with physical plant limitations.

Any such change should also address the situation that occurred when ASP received it (now rescinded) AC appliance exemption. ASP inmates with appliances were permitted to retain (and operate) them, while similarly situated inmates transferred to ASP had their appliances confiscated in violation of their due process and equal protection rights.

RESPONSE: *See Response to Comment 5B.*

COMMENT 29H: Regulations, such as Title 15 section 3190(o) should explicitly allow registerable property and appliances to be received in quarterly inmate packages. This is necessary because some institutions insist appliances be shipped in separate "special purchase" packages, even if they are ordered from approved inmate package vendors. The new section 3190(o) appears to attempt to correct this, but still allows room for deliberate misinterpretation by staff. Making this explicit will reduce the number of packages staff must handle and will reduce shipping costs to inmate's families by allowing them to order, for example, a CD player in the same package as the CDs for it.

RESPONSE: *Special purchase items require a significantly different accountability process by staff, e.g. placement of item on property card, scribing of name and CDCR number, etc. upon receipt and therefore need a separate "handling" than the quarterly packages.*

COMMENT 29I: New regulations use the term "no inside pockets" to restrict clothing. Rationally this would appear to mean pockets with a concealed opening on the inside of the clothing item, but vendors, when they implemented the illegal March 2009 CDCR memo, appeared to interpret this as referring to all pockets. The regulation should make clear that pockets are permitted if not concealed, or alternately, if this is not the intent, explain what a permitted "outside pocket" would consist of.

RESPONSE: *See Accommodation 2F.*

COMMENT 29J: Several Authorized Personal Property Schedule entries use an inmate's sex as a basis for determining what property they are permitted to possess. Such discrimination violates the Constitution unless a clear, rational basis and compelling need for disparate rules exists. CDCR has failed to specify the rational basis for most or all of these discriminatory restrictions.

While some items are obviously intended for one sex or another based on anatomical differences, many items are equally suitable for both sexes, yet CDCR has chosen to permit them for female inmates, with no basis for the distinction. Examples include alarm clocks and watches, ear plugs, certain games, mirrors in ASU, eyeglass repair kits, dried fruit and sugar, immersion heaters, and many other items.

CDCR must support each instance of discriminate property privileges, documenting the specific rational basis and compelling need for sex discrimination between similar security level male and female inmates. This statement must cite specific, verifiable evidence of significantly increased security risks of such property when possessed by the discriminated-against population.

RESPONSE: *See Response to Comment 20G.*

COMMENT 29K: No rational basis for headband restrictions. The claim in the ISOR that head (sweat) bands represent a security concern due to possibility of contraband concealment has no rational basis. There is no conceivable scenario in which it would be harder to detect contraband in a headband than in other approved clothing such as shoes, socks, gloves, sweat pants, etc. Additionally, as female inmates are permitted this item, the implied claim that females are not intelligent or creative enough to store contraband in a headband, while males are, is offensive.

ACCOMMODATION: *Headbands are restored as an allowable item. This revision was included in the Notice of Change to Text as Originally Adopted dated April 29, 2014.*

COMMENT 29L: The premise for restricting laundry detergent to facilities with access to washing machines is false. Detergent is intended for both machine and hand washing, and some products (typically those intended for lower income markets) have hand-wash instructions on the label or on the product web site. Concern over possible contact with eyes is not relevant, as exposure can occur whether or not a machine is used. Concern over contact with body is false and fabricated. Samples of two products (Tide and Supremo) have no warnings on their packaging advising against skin contact. As "no apparent security risk exists," this product should be permitted for all inmates, as it makes hand washing considerably easier than with soap.

RESPONSE: *See Accommodation to Comment 4B.*

COMMENT 29M: Single-serving limit on perishable products. The new regulations specifying that food items recommending refrigeration after opening be limited to "single-serving containers only" is unreasonable because the "serving size" on many food items is deliberately made small to artificially improve the "nutrition facts" labeling, with the full knowledge that virtually no one - let alone adult males - will eat only a single serving at one time. For example, common Ramen noodle soups are listed as two servings, but it is unheard of for an inmate to only eat half a soup. Inmates should simply be instructed that they are responsible for immediately consuming perishable products after opening, just as they are instructed to consume the perishable meat provided with State issues lunches within hours of issuance.

Alternately, the serving limit should be increased to at least two, which would be consistent with the two servings (for two sandwiches) of lunch meat provided by CDCR on a daily basis to each inmate.

This will improve the selection and value of products available to inmates without any health hazard beyond that created by State-issued meals, while reducing the volume of trash in the waste stream from single serving containers.

RESPONSE: *Although the restriction does limit the type of container as a "single serving container" for items requiring refrigeration after opening, the Authorized Personal Property Schedule does not restrict the amount of "single serving" containers purchased.*

COMMENT 29N: Extension Cords. The 6' extension cord length limit is slightly too short to safely reach all bunks in some dormitory housing, depending on appliance cord length. A limit of 8' would greatly improve usability without the need for unsafe installations.

Up to five or six outlets should be permitted to accommodate multiple appliances and larger AC adapters which tend to block neighboring outlets. This will reduce conflicts over access to limited wall outlets, and reduce demand for inmate-manufactured "splitter" adapters, which can represent a fire hazard. Additional outlets do not create an overload hazard due to circuit breaker requirements.

The description should use the correct terminology for grounded wiring. For example, "UL Listed, CEC 400.8 compliant grounded (three-prong) extension cord/power strip with 15 amp circuit breaker, maximum six outlets"

RESPONSE: *Institutions that have specific physical plant limitations may submit an exemption if longer extensions cord or additional outlets are needed.*

COMMENT 29O: The ISOR fails to specify the reason for the "clear" requirement on earbuds. Due to the very small unused internal volume of this item (typically much less than one cm), there is no security risk compared to other available items that have non-clear components. The clear requirement for this product unnecessarily limits products to a very few low quality models which require frequent replacement.

RESPONSE: *See Accommodation to Comment 15A*

COMMENT 29P: The new Authorized Personal Property Schedule include a restriction on "gaming systems and games" which has no corresponding entry in the ISOR; as such, this restriction violates the APA. There is also no need for this explicit restriction, as all items not specifically permitted are

restricted. However, permission for these items should be considered. Stand-alone "Gameboy" type devices and "joystick" type controllers that can connect to inmate TVs, both with pre-loaded non-removable games, are available which satisfy the requirements on electronic storage and information transmission. In addition, inmates in other jurisdictions, including CDCR inmates in COCF institutions, have been able to purchase game systems for several years without serious security concerns. With appropriate limitations on game content comparable to restrictions on 'R' rated movies, video game systems have been shown to be an excellent behavioral incentive, particularly for the younger generation of technology-raised individuals, who often represent the largest source of behavioral problems in prisons.

RESPONSE: *See Response to Comment 5B.*

COMMENT 29Q: The ISOR addresses the new regulation permanently disallowing electric typewriter possession if it is used in an "assault," but fails to explain the additional language covering "used in a manner that constitutes a safety/security threat." As such, this additional language violates the APA. This phrase is vague and ambiguous, and is susceptible to selective interpretation and abuse. The regulation must specify what constitutes a "safety/security threat," and what due process shall be provided before seizure occurs. For example, "disallowance following a finding of guilt in a Division A, B, or C "RVR" for an offense that could not have been committed but for possession of a typewriter." As written, this language could be used to retaliate against an inmate using a typewriter to exercise his First Amendment right to petition the government or to sue CDCR and its agents for misconduct.

RESPONSE: *In an effort to provide an inmate a means to correspond using a typewriter, CDCR allows the possession of an appliance with a high propensity of weapon stock, with the intent that the use of any component of the typewriter in an assault renders the typewriter inoperable and warrants the loss of the privilege.*

COMMENT 29R: There is no more need for a restriction of speakers in appliances now than there was five years ago when CDCR temporarily (and illegally) instructed vendors to stop selling items with speakers. In the time since the threat suggested in the ISOR has not materialized, and any instances of inmates using speakers at excessive volume can easily be dealt with using progressive discipline. Restricting speakers on new appliances will dissuade inmates from replacing older glass tube TV sets with newer flat panel models that consume much less power, weigh less, and take up less space, and - most importantly, if safety is a concern - do not contain significant amounts of glass and metal. It will also create an unauthorized secondary market for sets with speakers, creating more work for staff that has better things to do than check serial numbers on inmate appliances. The reason that this will "provide inmates one less means to violate (regulations)" increasing their chance of paroling on time, is specious and disingenuous. If this were a valid argument, it would apply to virtually every activity inmates are afforded, yet CDCR does not cancel education classes because inmates might get in trouble for talking in class. In fact, the ability to follow rules, even when they have no apparent rational basis, demonstrates suitability for parole.

RESPONSE: *See Response to Comment 6A.*

COMMENTS #30

COMMENT 30A: The CDCR has allowed High Desert State Prison (HDSP) several granted exemptions including disposable razors. This exemption is uncalled for and not fairly applied across the entire prison system. There is absolutely no reason prisoners cannot possess razors on the HDSP, 'B'

facility, as this is a Level IV, 270° Special Needs Yard (SNY) facility. Not one of the other Level IV, 270° SNY facilities in the entire CDCR is authorized a granted exemption for disposable razors.

HDSP officials abuse this exemption because they refuse to allow prisoners to shave except 'maybe' one day a week, if we are lucky, and they take the razor back (that they control) after only about 20 minutes, and this time must be split between cell partners, as there is only one sink and many times prisoners must wait as much as 10-14 days for officials to pass out razors, and always with little time to use the razor, and split time with cell partner. This also allows for cell partners to bully weaker cell partners and use all the minimal shaving time for themselves. There is absolutely no penological interest here, as there is no difference between a Level IV SNY facility at R.J. Donovan; Mule Creek; CSP-LAC; Calipatria; or here at HDSP, B-Facility, which is a Level IV SNY facility.

The granted exemption for disposable razors must be overturned on this SNY facility, and shall not be lumped into the same category as the HDSP 'C' and 'D' facilities, as both of those facilities are mainline Level IV 180° facilities and extremely violent. This does not have anything to do with the 'B' facility, which is a Level IV SNY facility.

The no razors allowed policy must be overturned for this 'B' facility as it is not a 180° facility, it is a SNY, and this policy is not equally applied across the board for all Level IV SNY facilities, and no penological interest are legitimately addressed, nor fair to all Level IV SNY prisoners because there is no difference between a Level IV SNY prisoner at any other prison facility, and all others allow razors.

RESPONSE: *HDSP had a valid institution-wide exemption for razors.*

COMMENT 30B: High Desert State Prison officials refuse to allow Level IV SNY prisoners to possess their own fingernail clippers and illegally confiscate them when they find them, and/or when prisoners transfer here. The property matrix does not allow for HDSP to exempt fingernail clippers from the Authorized Personal Property Schedule, Matrix 3, Level IV, yet the prison has imposed this highly illegal 'underground' rule on the entire prison and there is no legal authorization for such. Therefore the confiscation of mine amounts to theft. It is requested that HDSP officials be instructed to refrain from further confiscation of 2" fingernail clipper w/o file, and allow us to receive them in packages and/or through canteen purchases.

RESPONSE: *The Authorized Personal Property Schedule does allow fingernail clippers for Level IV inmates. See also Response to Comment 11A.*

COMMENT 30C: Pencil Sharpeners are allowed in Matrix 3, yet HDSP officials refuse to allow prisoners to possess one. The prison does not have any pencil sharpeners for inmate use and does not allow us to own one, therefore making a pencil a useless writing/drawing implement. This makes no logical sense; we can own a pencil but we can never sharpen the pencil and use it? This must be changed immediately. Please inform HDSP officials to allow us prisoners to obtain pencil sharpeners in packages and/or canteen, or provide one at State expense to be used in the buildings and kept under control of staff. But please note that the matrix does not say pencil sharpeners are disallowed for Matrix 3.

RESPONSE: *Pencil Sharpeners are provided to Level IV Inmates at Warden's discretion. See also Response to Comment 11A.*

COMMENT 30D: HDSP officials have recently started confiscating hygiene items from packages, such as toothpaste and deodorants without any pre-warnings. The excuse is the item is not in a clear see through container. This may be true in some situations involving deodorant sticks, but these items have always been allowed, and then all of a sudden, without any warnings at all, officials just start taking them while issuing packages recently, and would not allow prisoners to remove the deodorant from the container. This should be allowed, as there was never any posted warning. Colgate Smart Foam toothpaste comes in a clear, see through tube. The tube comes in a cardboard packaging box that is not see through. Because the box itself is not clear, officials started taking these too. This is highly illegal as the tube itself is see-through, as required. If staff does not like the box, they can and must allow the prisoner to remove the tube from the box. Because there is no specific instruction, HDSP officials are blatantly and illegally confiscating such items for personal gain, to the loss of the prisoners and their family members' finances. And this was and is being done without any pre-warnings, no grace period. HDSP officials are of the opinion that this is the year 2000 and they are allowed to make up their own prison's allowable exemptions or not, and they also lie and claim safety and security concerns for items that do not seem to be a problem at other Level IV SNY 270° facilities; and/or they lie and lump this SNY facility in with the two mainline 180° facilities, 'C' and 'D' and use violent behaviors on those facilities to obtain exemptions and falsely apply the exemptions to this Level IV SNY, 270° 'B' facility. Again, compare the unequal and unfair exemptions that are imposed on the SNY 'B' facility along with the two 180° mainline facilities) and compare to other Level IV SNY, 270° facilities at other prisons. It is very clear that this is unfairly applied.

ACCOMMODATION: *See Accommodation to Comment 19A.*

COMMENT 30E: If prison officials are going to start imposing new and illegal underground rules concerning allowable property and property in packages, they must inform prisoners in advance so prisoners and their family members do not suffer financial losses and prison officials financially gain for themselves. This is the case at HDSP, no postings whatsoever. The Notice of rule changes, especially the changes being made to the Authorized Personal Property Schedule and subject of this written comment, was never posted at HDSP. Prisoners are expected to guess at what they can and cannot have in packages, as the new Authorized Personal Property Schedule rule changes are not posted.

RESPONSE: *CDCR received a Certification of Posting from High Desert State Prison stating under penalty of perjury that Notice of Change to Regulations #14-01 was posted in conspicuous places throughout the institution.*

COMMENT 30F: It is respectfully requested to correct the illegal behavior of HDSP; force them to post the Authorized Personal Property Schedule and rule changes associated with such; do not allow HDSP officials to impose exemptions (those authorized as well as the illegal underground exemptions) upon Level IV SNY 270° facility, that really only apply to the mainline and extremely violent 180° facilities; order officials to allow fingernail clippers and disposable razors and pencil sharpeners; also allow for hygiene items in clear containers, even if in a box for packaging such as the toothpaste mentioned above, and if necessary, allow the prisoner to remove the clear see through tube toothpaste from the box it is commercially packaged in. Lastly, it is requested the CDCR order HDSP officials to fully comply with the new Authorized Personal Property Schedule and stop making up their own underground exemptions that are highly illegal and meant to only harass prisoners while the prison officials confiscate property for personal gain. Please do something here.

RESPONSE: *See Response to Comments 11A, 19A, 30A, 30B, and 30C.*

COMMENT 30G: It is very appreciated that prison officials at the Sacramento CDCR Headquarters have finally come up with a Department wide property list for each Level 1-4 (and for women) and no longer allow each prison to make up its own lists that conflict with each other. This prevents multiple 602-Appeals and senseless litigation and take away some correctional officer's abusive authority concerning confiscation of property that I their own minds is not allowed. This new Authorized Personal Property Schedule is long overdue and very much appreciated.

RESPONSE: *The Department appreciates the positive comment.*

COMMENT 30H: HDSP officials have verbally made it clear to the MAC they will not allow any television (flat screen) with a 15" screen into the prison and they claim the allowable 15.5" measurement applies to the entire dimensions (cabinet measurement). This does not comply with the new matrix. Again, HDSP is not complying with the matrix.

RESPONSE: *The Authorized Personal Property Schedule states the measurement shall be applied to the screen size and not to include the cabinet of the flat screen television.*

COMMENTER #31

COMMENT 31A: You want televisions to come without speakers. This is prejudicial to differently able prisoners who might not be able to use headphones. Also, if two people are in a cell and only one has a TV and headphones, the other person cannot watch the TV. This punishes poor inmates. There are already rules in place to prevent people from causing a disturbance by blaring their TV and radios. This new rule change is unnecessary for controlling noise. It is only written to punish inmates, and will only cause anger and resentment.

RESPONSE: *See Response to Comment 6A.*

COMMENT 31B: The laundry detergent ban you are creating is objectionable. You say it is banned if we don't have access to a washing machine. But, we have no other way of cleaning our personal clothes. The prison laundry is forbidden from cleaning our personal clothes. And we do have homemade laundry machine, a.k.a., our storage containers. We can fill them with water and wash our clothes in there, agitating them by hand. There is no real reason to deny prisoners laundry soap. Let them clean their cloths with Tide if they want. It is their money, their clothes, and costs the State nothing.

RESPONSE: *See Accommodation to Comment 4B.*

COMMENT 31C: You refuse to allow us ballpoint pens unless they are blue or black, but it is detrimental to our rehabilitation to preclude colored pens. We need them to draw with, or to express ourselves with. There is no legitimate reason to deny us a colored pen, to deny us the ability to create artwork.

RESPONSE: *See Accommodation to Comment 9C.*

COMMENTER #32

COMMENT 32A: You are taking the speakers from radios and TVs, but we need them. You don't need to pass this rule because there are already rules in place to punish us if we turn our TVs up. It is hellish to not have speakers and you are trying to solve a problem that does not even exist.

RESPONSE: See Response to Comment 6A.

COMMENT 32B: CDCR is taking away our colored pens, limiting us to only blue and black ink. But I draw for my daughters with ink, and now I won't be able to. Why are you trying to hurt families? I can't draw Tinkerbelle, or even grass, without a green pen. And how can I make a valentine for my wife without a red pen for hearts and roses? Please, there is no reason to limit us to only black and blue. Do not pass that part of the rule change, please.

RESPONSE: See Accommodation to Comment 9C.

COMMENTS #33

COMMENT 33A: I have received the attached documents from the Office of the Federal Defender, 801 I Street, 3rd. Floor, Sacramento, CA 95815 on February 28, 2014. CDCR has not provided any Notice of the intended rule changes to sections 3044, 3190 or 3315 of Title 15, CCR. There have been no Notices posted on the Yard Bulletin Boards of Condemned Yards in East Block at SQSP. We have not seen any posting in the SHU law library which is the only one we have access to. We have never received any Notice of changes to the Authorized Personal Property Schedule referenced supra; therefore, any proposed changes are unlawful because we had no opportunity to give comments/objections and hearings.

Condemned row supervisors have kept up in complete lockdown through much of the time allotted to give comments or objections to the Notice of Change of Rules. We have been denied phone calls to our attorneys and denied access to yards and bulletin boards; denied all access to the SHU law library throughout most of this time; denied canteen to buy pens and paper to write comments and objections. Therefore, all times allotted to make comments should be required to start anew. And each condemned prisoner should be provided Notice of CDCR's proposed changes to Title 15 and to the Authorized Personal Property Schedule and given an opportunity to comment.

RESPONSE: CDCR received a Certification of Posting from San Quentin State Prison stating under penalty of perjury that Notice of Change to Regulations #14-01 was posted in conspicuous places throughout the institution. Additionally, pursuant to Government Code 11346.4(a)(1), every person who requested to be placed on the mailing list to receive Notices of all regulatory actions was provided a copy.

COMMENT 33B: In the documents attached hereto which were sent to me by the Federal Defender; there is no "statement" whether the proposed rules or Notice of Change "will not affect small business" as required by law. The changes will severely impact and negatively affect small businesses which are approved or wish to become approved vendors. Changes impose severe limits on property which can be purchased by prisoners.

RESPONSE: The CDCR did include the required statement related to small business in this rulemaking action. Also see response to Comments 21A and 29B.

COMMENT 33C: Possession of personal property in prison is governed by California Penal Code (PC) section 2600: "A person sentenced to imprisonment in a State prison may during that period of confinement be deprived of such rights and only such rights as is reasonably related to legitimate penological interests." Therefore, at a minimum, CDCR must give a "rational basis" explanation for all

restrictions on possession of property by prisoners. CDCR has failed to provide the PC 2600 "reasonably related to legitimate penological interests" justification for CDCR in limiting particular items; or, denying certain property to specified groups of prisoners. In fact, many limitations listed in the Authorized Personal Property Schedule are unlawful and unconstitutional as proposed.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33D: In all categories of male prisoners, none are permitted to receive or possess any dried fruit. But female prisoners can have dried fruit. There can be no 'rational basis' for discrimination based upon sex of the prisoner and food permitted males and females; gender discrimination is unlawful and unconstitutional under state and federal laws and constitutions.

RESPONSE: *See Response to Comment 20G.*

COMMENT 33E: Females are permitted "pajamas and robes; hairclips and facial astringent; hairdryer, rollers and pressing combs and earrings; rings with stones in them." But men are not permitted any of these items based upon their sex. Men have hair and faces which need the same care a woman does. There is no rational basis for depriving men of these items. Men have greater needs for pajamas and robes than do women because men get written up a serious RVR if their private parts get accidentally exposed. Gender discrimination is unlawful by state and federal laws. There can be no "legitimate penological interest" for these Discriminations (PC 2600). Any unjustly harsh enforcement of rules over prisoners which is not "reasonably related to legitimate penological interests" violates Penal Code section 147. "Inhumanity or oppression toward prisoners under an officer's care"; requiring removal from office.

RESPONSE: *See Response to Comment 20G.*

COMMENT 33F: The restrictions are not "reasonably related to legitimate penological interests" therefore, are invalid and unlawful under PC 2600 and 147. See page 9: "... Prohibited. .. Personal clothing items in any shade or tint of ... "black" "blue." But State-issued shirts and jeans are blue and athletic shoes are black and or blue." Just because clothing is personal, cannot convert the item into a threat to security. Personal clothing and shoes must have the same restrictions (PC 2600).

RESPONSE: *See Response to Comment 5B.*

COMMENT 33G: Females are permitted personal blue jeans; males are not permitted personal jeans although they used to be permitted and would save the state many millions of dollars annually by permitting them again. PC 2600 mandates males and females possess personal jeans if either is permitted.

RESPONSE: *Inmates are not permitted to wear or possess personal clothing that would allow them to blend in with the general public. This is a safety and security concern directly related to escapes. The Female Offender Programs and Services Mission has determined that female inmates do not represent a high escape risk and have therefore permitted personal denim to address self-esteem issues. See also Response to Comment 20G.*

COMMENT 33H: General population Levels I, II and III headbands no longer permitted (justify by PC 2600).

RESPONSE: *See Accommodation to Comment 29K.*

COMMENT 33I: Shower shoes and tennis shoes limit 1; no shades of blue, must be predominantly white in color, laces white. (The limits not justified by PC 2600. State-issue tennis shoes are blue and or black; limitations on tennis shoe colors are a violation of PC 2600 and PC 147 and "limit 1." Men should not have to discard a pair of tennis shoes which still have good use left, just because they get a new pair. Should be permitted to keep useful used shoes if they fit within cubic foot of property permitted).

RESPONSE: *See Response to Comment 5B.*

COMMENT 33J: Page 23; Comb/Hair Pick. Limit 1. Unlawful limit; combs are commonly lost and inmate should not have to go for a month until next canteen to get new comb and be able to comb his hair. Limit is oppression toward prisons designed to aggravate and annoy, causing depression. (Justify by PC 2600).

RESPONSE: *See Response to Comment 5B.*

COMMENT 33K: Pages 24 and 25: Palm Brush/Comb. Limit 1: violates PC 2600; serves no interest; combs are commonly lost and a backup needed.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33L: Toothbrush: Limit 2. Violates PC 2600. The sink is over then toilet. If you drop brush in toilet, you will not have a back-up. Regulations should reflect a minimum of 4 due to toilet and sink configuration.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33M: "Styrofoam containers from canteen only, not approved for inmate packages." This violates PC 2600 since permitted on canteen. You cannot have "reasonably related" penological interest to not permit in packages.

RESPONSE: *CDCR will not amend this language as Styrofoam does pose a safety and security risk to the institution and its population as Styrofoam can be manipulated into weapons stock.*

COMMENT 33N: "No foil packaged items permitted." Violates PC 2600 and it contradicts other parts of the Authorized Personal Property Schedule because it would include all meats and fish and other items in pouches: i.e., page 26 "foods vacuum packed (tuna, sardines, vegetables, etc)" which are permitted.

RESPONSE: *All of the examples given are allowable in Mylar packaging, and CDCR will not amend the disallowance of foil packaging as it presents a significant safety concern.*

COMMENT 33O: Page 26: Cereals. 26 oz max. (Violates PC 2600 and PC 147 as you cannot limit to less than one ounce of cereal per day; possession of only 26 ounces is "oppression.") We have never had limits on cereal. There can be no "legitimate penal interest" in such a limitation; except bullying and abuse of power; PC 147 demands officer's removal from office. Provide requester's name and identification for civil suit.

RESPONSE: *It is not the intent of CDCR to unnecessarily restrict cereal, but merely to restrict the size of the container. There are no restrictions in the Authorized Personal Property Schedule that limits the amount of boxes an inmate can purchase.*

COMMENT 33Q: "Address Book: 1. (violates PC 2600). Cannot be limited in number of addresses permitted.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33R: Audio cassettes: 10 (violates PC 2600). No penal interest.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33S: Ball point pens: 4. (violates PC 2600 and first amendment). Legal work and other writing can use up six or more pens a week, but we can only go to canteen when have money and when scheduled; furthermore, the Authorized Personal Property Schedule permits women to have ten pens and female SHU get 14-colored pen fillers, while men are limited to blue and black ink and only four pens. This is irrational.

RESPONSE: *See Accommodation to Comment 9C.*

COMMENT 33T: Books, magazines, newspapers: 10. Violates PC 2600 and amend the limit to cubic feet of property permitted.

RESPONSE: *See Response to Comment 20E.*

COMMENT 33U: Calendar: 1. Violates PC 2600. Men doing decades must be able to keep calendars on which they maintain records of important events. Limit to cubic feet permitted; not a number of them. Some are tiny pocket calendars. The Authorized Personal Property Schedule makes no accommodation for such.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33V: Card stock/Drawing Paper (white only, 12"x12" max size: 10 sheets). Violates PC 2600; no right to limit to white only; no such limits on hobby materials; takes many months to receive a special purchase order, and ten sheets can be used up in a day or week. Requiring men to reorder every ten-sheets would require weekly orders and waste staff time processing orders; and violates Government Code section 19572(c) "inefficiency," which is misconduct by State employees causing inefficiency. Can only be limited to cubic feet of property permitted.

ACCOMMODATION: *CDCR amended the Authorized Personal Property Schedule to allow 25 sheets of Card Stock/Drawing Paper instead of ten sheets, but will continue to allow white paper only. This revision was included in the Notice of Change to Text dated April 29, 2014.*

COMMENT 33W: Chalk, Pastels: 24. Violates PC 2600 interests.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33X: Compact Discs. DVDs shall not be permitted: 10 (no PC 2600 justification to limit to 10 and cannot deny DVDs per PC 2600's limits on CDCR right to deprive and other statutes allowing them).

RESPONSE: *See Response to Comment 5B.*

COMMENT 33Y: Page 30: "Greeting Cards: 10. Violates PC 2600 and amend 1 and Title 15 §3190 "the CDCR encourages correspondence "...mail shall be uninhibited ..." Right to unlimited correspondence for holidays also.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33Z: Legal Tablets: 4: (Violates PC 2600 and Amend I). Can write through 4-tablets in a week doing legal writing. But cannot get more until next month and canteen doesn't always have them in stock; therefore, could go for months without ability to write letters and legal work. Also must be permitted to keep tablets which are full of writing. The Authorized Personal Property Schedule does not clarify that right.

RESPONSE: *See Response to Comment 5B. Additionally, inmates are allowed to keep their personal writing tablets as long it does not exceed their six cubic foot allowance, pursuant to CCR, Title 15, Section 3190.*

COMMENT 33AA: Reading Glasses: 1. Violates PC 2600. Must be permitted minimum of 2 so we have backup when glasses break.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33BB: Stamps: 40. (Violates PC 2600 and Amend. I). Men need to have at least 40 first-class stamps, plus smaller denominations so do not have to over pay; second ounce is 21¢ per letter. Staff limit is 40-one cent stamps; or 5¢ or 10¢ or 20¢ or a 49¢ stamp; that is ignorant bullying "oppression." Must be allowed 40 of each type.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33CC: AM/FM radio/CD/cassette tape player or any combination allowed ... 3" x 6" x 6" (limit violates PC 2600). Not reasonably related to penal interest, as proven by permitting these to be included in TV; therefore, limited size alone is not rational and cannot find a "cassette tape/CD and radio" combination that tiny: 3 x 6 x 6. Can only limit to 16" x 16" x 20" size, same as TV under PC 2600. Musical instruments are not so limited; can be 46" x 24" x 12". Same must apply to radio/cassette/CD players and TV's.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33DD: TVs have limits violating PC 2600. Outside size can be 16" x 16" x 20" but can only have a 15" screen; used to be 13. "Limiting the screen to 15" in a 20" TV violates PC 2600 as not reasonably related to a penal interest.

RESPONSE: *See Accommodation to Comment 18A.*

COMMENT 33EE: Typewriter: "No removable memory storage device, discs, tapes, chips (CPUs) temporary internal memory up to 1-line for correction purposes is permissible. Memory must automatically clear when device is turned off. No capability to transfer information. Violates PC 2600 and PC 147. Many prisons in California have had unlimited memory and has not shown to be a threat. Furthermore, many other states and federal prisons permit unlimited memory and even computers to be possessed by inmates; therefore, California's restrictions cannot be "reasonably related to legitimate penological interests." Federal courts look to other states and U.S. government prisons to determine whether restrictions by California are "reasonably related to legitimate penological interests": *Warsoldier v. Woodford*, 418 f3d 989, 998-1001 (9th cir. 2005), other prison systems, including the Federal Bureau of Prisons do not have such hair length policies. Thus, CDCR's limits were declared unreasonable exaggerated security concerns. The same now applies to severe limits on typewriter memory which other states are allowing unlimited memory and even computers without limits on memory. These are needed for effective legal work for court filings. All limits on memory should be eliminated; they have cost the state millions of dollars by delaying litigation prisoners are engaged in pursuing in their convictions.

RESPONSE: *See Response to Comment 2E.*

COMMENT 33FF: "Watch: no calculator, radio, TV, games." The limit violates PC 2600 "not reasonably related" penal interest because you can have calculator, radio, TV and games; why not a watch?

RESPONSE: *See Response to Comment 5B.*

COMMENT 33GG: Page 37, shoelaces 1. (Violates 2600; should be able to have back-up pair in case of breakage).

RESPONSE: *See Response to Comment 2C.*

COMMENT 33HH: Page 41: Condiments: "spices ...sugar free honey, dried vegetables ... Permissible. Tomato based products containing sugar such as ketchup, BBQ sauce; pizza sauce, etc. are not permitted. Items containing sugar such as jams, jellies, honey, syrup, juices, and sugar are not permitted." Violates PC 2600 because CDCR allows women to have these items. BBQ sauce, ketchup, jams/jellies, honey, syrup, etc. are permissible. Violates PC 2600 because foods permitted for females must be permitted for males. By allowing females these items, CDCR admits these do not present a reasonable threat to security which could justify denying them to male inmates. Discrimination based on gender violates state and federal constitutions and civil rights statutes. It proves "oppression toward male prisoners." This is also elder abuse under state and federal laws.

RESPONSE: *See Response to Comment 20G.*

COMMENT 33II: Objects to proposed subsection 3044(d)(2)(g). It is intentionally confusing and limits special purchase orders (SPOs) to only what is permitted under sections 3190(j) and (k). Section (j) limits SPOs to three appliances and one musical instrument substituted as one appliance. The restriction of SPOs to only appliances and an instrument excludes all clothing and other items in the approved vendor catalogs. It violates Penal Code (PC) 2600, and CDCR must identify why all other items in the catalogs are suddenly banned. It would put the vendors out of business. If that is not the intent, then this is not clearly written as mandated by the government code.

RESPONSE: *Special Purchase items are outlined in CCR, section 3190(i) and do not include items such as clothing.*

COMMENT 33JJ: Amended subsection 3190(k)(2) Privilege Group C's denial of access to any entertainment appliance is an unconstitutional restriction on First Amendment right of access to the news and current events. Additionally, it amounts to "oppression toward prisoners under an officer's care," prohibited by PC 147 and mandating those officers be removed from office. Such severe restrictions on access to distractions would likely result in severe mental illness and suicides. California's suicide rate is already the highest in the USA. Before adopting these restrictions CDCR is required to conduct a study and take expert testimony on likelihood of causing severe mental illness and suicides.

RESPONSE: *Access to entertainment appliances is a privilege, not a right. CDCR does not prohibit other media deliverables such as mail, and access to library services. See also Accommodation to Comment 18B.*

COMMENT 33KK: Subsection 3190(k)(3)'s mandate of "disposal of entertainment appliances" is an unconstitutional taking not authorized by PC 2600 as it is anti-rehabilitation and will cause hatred of prisoners for staff. It is bullying. Many men have no money to buy another appliance; therefore, they would never have one again unless their family accepts the punishment and pays for a new appliance.

California is already being sued and is disparaged world-wide for running solitary confinement isolation units. California's defense has been "California does not really operate solitary confinement isolation units because the men have TVs and radios to occupy their minds." Taking entertainment appliances from men will drastically change the posture of litigation and cause costly re-litigation of the facts, which this will change for the worse by supporting that conditions amount to cruel and unusual punishments resulting in increased suicides and costly mental illness.

RESPONSE: *See Response to Comment 5B.*

COMMENT 33LL: These comments and legal objections are based upon CDCR's failure to provide Notice and opportunity to comment by condemned and other prisoners. The importance of these proposed highly restrictive regulations and the Authorized Personal Property Schedule mandated Notice of these changes and opportunity for all prisoners to comment and object, as the limitations will greatly limit their ability to draft legal documents and file them in the courts, and will deeply and negatively impact mental health and physical health through imposition of stressful conditions of imprisonment.

CDCR has not served or otherwise provided any Notice upon condemned prisoners of the nature of the proposed changes, and has not provided copies of the changes in the SHU law library. Furthermore, CDCR has severely restricted access of condemned prisoners to law library since the first week of January 2014. However, even if provided to the law library, condemned would have no reasonable access to the documents which would allow informed comments, unless condemned are able and willing to pay CDCR \$10.00 (ten dollars) for each separate set copied for them.

First and foremost, EBAC was only alerted to these changes and the Authorized Personal Property Schedule because the Office of the Federal Defender sent a copy to EBAC. No copy has been posted on the yard bulletin boards; however, if they are posted, we could only read the cover-sheet because the bulletin boards are on the other side of secure fencing which keeps us from contact with the contents of postings except the ability to read the first page from about 24" away. The law library has not had a

copy. When EBAC requested the law library make copies of what the federal defender provided, the library said it would only do so if EBAC members paid for copies from their trust accounts at 10¢ per page which comes to about ten dollars and ten cents for each set copied. There are eight separate yards plus about 60-walk alone prisoners and many others which go to no yard on condemned row. Therefore, it would require about 100-copies for the 700-plus condemned prisoners to be able to provide comments and objections. That would cost EBAC and other condemned over one thousand dollars to provide copies to only one in every seven condemned. Because the Authorized Personal Property Schedule and Title 15 changes are so lengthy and complicated and for condemned prisoners to be permitted an opportunity to comment, each of the 730 condemned should have his own copy. That would cost EBAC over seven thousand-dollars.

All 700-plus condemned prisoners must share the SHU law library. However, there are only about 13-booths available each day in the afternoon and again at night. That is 26-potential slots per day for 5-days a week, or 130 access slots per week. Each session only lasts about 2-hours; therefore, men could not even read through all the pages within 2-hours. It would take over 6-weeks just to give each condemned one opportunity to access law library once. However, when the law library does get copies of proposed rules changes, it only has one copy available; therefore, for each condemned to be permitted to review the changes once would take about 70-weeks. There are two sessions per day, times 5-days a week; that means only 10 condemned could review the changes each week. It would take over 72 weeks to afford only one quick review to each condemned. CDCR never gives us adequate time to comment even when they do provide a copy to law library. Men should not have to pay \$10.00 just to get a copy of a rule change from library so they can give intelligent comments and objections.

RESPONSE: *See Response to Comment 33A.*

COMMENTS #34

COMMENT 34A: The revision permits 15.5" televisions; the televisions sold by approved vendors are 15.6". This one-tenth of an inch discrepancy needs to be addressed. Request: Amend the revision to permit 15.6" televisions in order to align with the products currently being sold by approved vendors.

RESPONSE: *See Accommodation to Comment 18A.*

COMMENT 34B: The revision does not include *Kava Kava*, a popular anti-anxiety supplement (similar to valerian) that may benefit the inmate population where stressors are prevalent and may alleviate some of the mental health requests for anxiety. Request: Amend the revision to permit the *Kava Kava* herbal supplement.

RESPONSE: *Due to the potential health concerns, CDCR will not add this item as an allowable supplement.*

COMMENT 34C: The revision language requires access to a washing machine; most prisons do not provide access to washing machines, but inmates need laundry detergent to wash personal clothes. Most of the hand soap detergents sold by approved vendors contain a significant amount of fragrances, are not hypo-allergenic, and cause clothes to deteriorate more rapidly due to the high volume of lye. Request: Amend the revision to permit laundry detergent for all inmates.

RESPONSE: *See Accommodation to Comment 4B.*

COMMENT 34D: The revision requires that protein supplements contain a minimum of nine essential amino acids and requires that the nine essential amino acids be present in supplements with the fourteen nonessential amino acids. These restrictions unnecessarily exclude single nonessential amino supplements, such as I-glutamine, which is beneficial as an anticatabolic, and I-arginine, which is beneficial for people with hypertension. Request: Amend the revision to permit single non-essential amino acids; especially those that are provided in limited quantities via the institutional diet and that have proven medical benefits.

RESPONSE: *Due to the potential health concerns, CDCR will not modify the Authorized Personal Property Schedule to allow a single non-essential amino acid supplement.*

COMMENT 34E: The revision restricts pen colors to blue and black ink for men, but permits all colors for women. Colored pens are not a security issue where the ink cannot be converted into a substance that adheres to epidermal pigment. Moreover, colored ink promotes artistic endeavors that provide a creative outlet for inmates. Request: Amend the revision to permit male institutions to purchase colored pens that are sold by approved vendors.

RESPONSE: *See Accommodation to Comment 9C.*

COMMENT 34F: The revision states that California Substance Abuse Treatment Facility and State Prison (CSATF/SP) was provided with an "exclusion" for pencil sharpeners. It is unclear what security issue exists at CSATF/SP that is disparate from any other similar institution. Without advancing a disparate security issue in accordance with DOM, Article 43, CSATF/SP should not be provided with an exclusion that encompasses all Level II, III, and IV inmates housed. If any exclusion is permitted, it should be more narrowly applied to Level IV inmates only. Request: Amend the revision to rescind CSATF/SP's "exclusion" for pencil sharpeners due to there not being a disparate security need from similarly designed institutions as required by DOM, Article 43.

RESPONSE: *CSATF/SP has an approved and valid exemption for pencil sharpeners.*

COMMENT 34G: The revision does not specifically include hair gel, but permits hair oil/grease. Request: Amend the revision to specifically permit male institutions to purchase hair gel.

RESPONSE: *See Accommodation to Comment 28B.*

COMMENT 34H: The revision does not specifically indicate that under shirts with logos are permitted. Request: Amend the revision to indicate that under shirts with logos (currently available through the approved vendors) are permissible.

RESPONSE: *CDCR stands on its decision to continue to disallow logos on the allowable undershirts in a continuing effort to ensure the safety and security of our institutions.*

COMMENT 34I: Loss of Fans, Typewriters, and Calculators on Privilege Group C Conflicts with Title 15. The revision does not address why inmates placed on Privilege Group C are losing their fans, typewriters, and calculators (which are not entertainment appliances permitted to be taken per the Title 15). Request: Amend the revision to indicate that fans, typewriters, and calculators are permitted while on Privilege Group C as required by the Title 15.

RESPONSE: *See Accommodation to Comment 18B.*

COMMENT 34J: Conflict between Title 15 subsections 3190(k)(1) and 3315(f)(5)(L). Subsection 3190(k)(1) requires that inmates send home their personal property if a Senior Hearing Officer (SHO) temporarily places an inmate on Privilege Group C for a single finding of guilt for a Rules Violation Report (RVR). The significant latitude of discretion afforded to a SHO (to require inmates to dispose of their personal property for a single RVR finding of guilt) is ripe for abuse and could potentially end up costing inmates and their families hundreds of dollars for minor disciplinary infractions. Moreover, subsection 3315(f)(5)(L) conflicts with subsection 3190(k)(1) in that inmates placed on Privilege Group D are still permitted to temporarily lose their property for a single RVR finding of guilt. Request: Amend the above subsection revisions to ensure that inmates are not required to dispose of their personal property for a single RVR finding of guilt.

RESPONSE: *See Response to Comment 23D.*

COMMENTER #35

COMMENT 35A: It is requested that speakers be allowed for all appliances. The new Authorized Personal Property Schedule states that speakers are no longer allowed for any appliance. This issue has been addressed during the inception of the Authorized Personal Property Schedule and with the revisions since that time. Each time it has been deemed appropriate to leave this issue up to the Warden's discretion as the physical design of each institution is different. Institutions with cell doors have generally agreed that having speakers was not a concern. Additionally, not allowing speakers places an unnecessary financial burden on inmates by forcing them to purchase headphones/earbuds. The justification, as listed in the Notice of Proposed Regulations that this will reduce the work load of staff since they will no longer have to address inmates who fail to use headphones while using their appliances. This justification is not valid as the amount of staff time that will be incurred when they have to constantly go to inmates cells to get their attention when they are wearing their headphones will in reality increase staff workload rather than reduce it.

RESPONSE: *See Response to Comment 6A. Furthermore, the requirement previously existed requiring the use of headphones/earbuds.*

COMMENT 35B: It is requested that hypo-allergenic laundry soap be authorized for the inmate population. Laundry soap is now being limited to those institutions where inmates have access to a washing machine. Laundry soap is an integral part of the hygiene process and facilitates inmate compliance with Title 15 Grooming Standards.

RESPONSE: *See Accommodation to Comment 4B.*

COMMENT 35C: Hoisin Sauce. It is requested that all package vendors be notified that Hoisin Sauce is allowed per the new Authorized Personal Property Schedule. During a MAC meeting with a representative from Union Supply Direct the issue of Hoisin Sauce was discussed. This sauce is not tomato based and cannot be used in the manufacturing process for inmate-manufactured alcohol. The representative assured the MAC that this item would be allowed per the new Authorized Personal Property Schedule; however, the package companies have still been instructed by CDCR not to ship this item to inmates.

RESPONSE: *The Authorized Personal Property Schedule does allow for sauces, which includes Hoisin.*

COMMENT 35D: It is requested that non-clear earbuds be authorized and allowed. These items are so small as to make the issue of hiding contraband moot. No company makes the higher quality earbuds in non-clear casing. This severely limits the population's selections and puts an undue burden upon them, as the clear case earbuds tend to be cheaper models, which break with more frequency than the higher quality ones, thus forcing the population to buy more earbuds.

RESPONSE: See Accommodation to Comment 15A.

COMMENT 35E: It is requested that hair gels be allowed for men just as they are for the women. Currently the catalog list various hair gels, styling gels and conditioning gels but state that they are approved for A/B and SHU women only. There is no difference in security between men and women and both are clearly authorized to have hair, which means there is no reason they should be allowed different hair care products.

RESPONSE: See Accommodation to Comment 28B.

COMMENTS #36

COMMENT 36A: The Notice of Changes to Regulations is not consistent and is not updated to conform to the Americans with Disabilities Act (ADA) 42 U.S.C. 12131 et seq. and Armstrong v. Brown, USDC - Northern District No. C 94-207. Instead of each ADA Armstrong class member submitting a "Reasonable Modification or Accommodation Request" (CDCR 1824), many items could and should be included beforehand in the Authorized Personal Property Schedule. It is economical to do so.

Following is a list of proposed accommodations, additions, amendments, and modifications:

Typewriters (Braillewriter) - Visually impaired prisoners would be allowed to possess braillewriters, which can be either manual or electric. Braillewriters are similar to typewriters except that they print Braille dot characters. Many organizations will send a braillewriter to the prisoner for free. Amend the Authorized Personal Property Schedule to include manual and electric braillewriters.

Slate and Stylus and Eraser - Visually impaired prisoners should be allowed to have a slate and stylus which allows him to manually punch Braille dots and characters. An eraser flattens the dots. Amend the Authorized Personal Property Schedule to include a slate and stylus and eraser.

Audio Entertainment Appliances - Allow CD players that play MP3 format CDs both without the capability to transfer information. Specifically, these are CD players, not MP3 players which can download from the internet. Visually impaired persons often are offered MP3-CDs, but they cannot get or play them. For example, Audio Bibles for the Blind, P.O. Box 621, Bradenton, FL 34206 (www.audiobiblesfortheblind.org) provides free MP3-CDs of the Bible. They also provide free CDs, but they are not a complete Bible, only selected scriptures. An MP3-CD holds more data than a regular CD. Allowing MP3-CDs allows visually impaired prisoners access to more materials. Amend the Authorized Personal Property Schedule to include CD players that can play MP3-CDs but without the capability to transfer information.

RESPONSE: Although the Authorized Personal Property Schedule does not directly address inmate with physical disabilities, the Armstrong Remedial Plan does provide inmates with recognized

disabilities reasonable accommodations, to include but not limited access to a "Talking Book" machine, Braille readers, and related assistive devices.

COMMENTER #37

COMMENT 37A: It is unfortunate that this decision to eliminate laundry detergent from CDCR canteens. Here at VSP we are limited to purchase six bars of soap. This puts a strain on inmates doing their own personal laundry. Purchasing laundry soap or soap of any kind is a choice, as is all items at canteen. So to eliminate any product as a solution to a 602 problem is harsh at best, especially at a Level II re-entry hub. What is the message you are sending? Intimidation? Inmates will be reluctant to appeal any decision. There must be a better solution. At CTF-Central (Soledad) a "Pilot Program" was implemented where the laundry room washed personal grays only one day a week with a signed release form from theft/loss. With the proper supervision and properly secured laundry bags, the pilot program was/is deemed successful. Inquire with CTF Central Laundry for confirmation and success. I believe a more viable and successful solution can and will be implemented. The discontinued sale of laundry detergent is opening up an opportunity of "black market" sales and theft from the inmate laundry services, thus creating a hostile/violent potential. I believe administration can do a much better job/solution to this matter other than eliminating it all together. Washing one's own clothes is very important in responsibility and is appreciated by all staff and inmates alike. I ask you to please take a closer look to making a better decision in the laundry detergent issue.

RESPONSE: *See Accommodation to Comment 4B.*

COMMENTER #38

COMMENT 38A: We oppose the regulation change #14-01 related to inmate property for the following reasons. The change in Departmental regulations without consideration to the parties affected does hereby constitute a violation of fair practice and representation of the affected group under code of law. The proposed regulation should be disapproved for failure to meet the necessity and clarity standards of Government Code (GC) section 11349.1(a), failure to submit a satisfactory fiscal and environmental impact statement, and the results of the economic impact assessment are unsubstantiated for the proposed regulation change.

One would expect to find a need for the change in regulations in the body of the proposed rulemaking. GC section 11346.2(b) requires an agency proposing a regulation to prepare a statement of the specific purpose of each adoption, amendment, or repeal of a regulation and the rational for the determination by the agency that is reasonably necessary to carry out the purpose for which it is prepared, and an identification of each technical, theoretical, and empirical study, report or similar document upon which the agency relies. Review of the document fails to show that the agency has met the requirements of due process.

RESPONSE: *See Response to Comment 21A.*

COMMENTER #39

COMMENT 39A: This letter is an attempt to obtain clarification with the proposed Authorized Personal Property Schedule. The proposed revision in question is the disallowing of audio appliances with speakers. CDCR states that the safety and security would be enhanced if the inmate Level 4 population would be devoid of appliances with speakers. You further state the workload of staff would

be reduced. I challenge your office to provide evidence to the above stated. This proposal should not be adopted because the safety of the correctional staff and the inmates are not in question. If inmates are forced to constantly utilize headphones/earbuds, they would not be able to hear when correctional staff addresses them on the P.A. system. Never-the-less, the proposal has already been tacitly adopted by approved vendors because my family has tried to purchase a radio with speaker and the vendor would not send it to me. How can this be possible, the hearing on the proposed regulation has not even occurred as of yet? From the documentation that I received from your office, the hearing is scheduled for March 21, 2014. But the vendor is stating that C.S.A.T.F. is not allowing appliances with speakers. If you could please clarify, it would be greatly appreciated.

RESPONSE: *These regulations have been in emergency effect as of January 8, 2014. See all Response to Comment 6A.*

COMMENTS #40

COMMENT 40A: This is regarding the stopping of sale of laundry detergent through the prison canteen or vendor quarterly packages. According to CCR Title 15, section 3061, in order to practice said health habits for my physical/mental well being, I need to wash and clean my personal clothing allowed me with the intended detergent for such action. Allow the purchase of said laundry detergent through prison canteen and/or approved vendor quarterly package companies.

RESPONSE: *See Accommodation to Comment 4B.*

COMMENTS #41

COMMENT 41A: Changes to the allowed property should never be considered to be an emergency. The changes to allowable property should not be enforced, as they are now here at HDSP, until after the public comments and inmates are properly informed/told what they can or cannot order. I recently ordered a TV with speakers and am being told today that speakers are not allowed. If I would have been told before the new rules were enforced, I would not have ordered a TV with speakers. CDCR should pay shipping to return TV with speakers and ship another TV to me.

RESPONSE: *Pursuant to Government Code (GC) 11346.4, at least 45 days prior to hearing and close of the public comment period on the regulations, the Notice was filed with, approved by OAL, and mailed to all interested parties. Additionally, the Notice was published in the California Regulatory Notice Register in compliance with GC 11346.4(a)(5). The Notice was also posted on the CDCR's Internet.*

COMMENTS #42

COMMENT 42A: Too much discretion for the Wardens is written into the Authorized Personal Property Schedule! This allowance of discretion defeats the stated intent of the amendments to section 3190 and the Authorized Personal Property Schedule. An example: the Wardens of Chuckawalla Valley State Prison and Avenal State. Prison can cite to physical plant limitations to prohibit Hot Pots. However, Correctional Training Facility, which is covered under the same Matrix as Chuckawalla and Avenal (Matrix 2), having dormitory housing on North Facility (Freemont Dorm - "A" Yard; Toro Dorm - "B" Yard), and a facility composed completely of Dormitory Housing (South Facility), does not prohibit this item even though (a) Chuckawalla and Avenal are 270 Degree design institutions built in the 90's, (b) Correctional Training Facility is a World War II/Korean War era institution with a much

more unreliable power distribution system. 3. Wasco State Prison, another Matrix 2 institution that is primarily dormitory housing (like Chuckawalla and Avenal), has no restrictions on hot pots! It is of similar construction as Chuckawalla and Avenal, built during the same era of construction as the two (2) aforesaid institutions. The amended rule changes nothing, but continues discrepancies between similarly housed inmates within CDCR.

RESPONSE: *See Response to Comment 5B.*

COMMENTS #43

COMMENT 43A: Regarding Cost Impact on Representative Private Persons or Businesses. NCR-14-01 states that, "The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action." It is simply unrealistic to claim that the Department is not aware of any cost impacts that a representative private person or business would necessarily incur given the scope of the changes being made. This is so because NCR-14-01 moves to limit several items or products which impact the businesses which offers these items for purchase. NCR-14-01 also severely impacts the manner in which the inmate population secures the items and personal property needed by them.

RESPONSE: *See Response to Comment 29B.*

COMMENT 43B: Concerning - Results of Economic Impact Assessment. NCR -14-01 states that, "The Department has determined that the proposed regulation will not: create new businesses or eliminate existing businesses" and the statement, "The Department has determined that the proposed regulation will not: Affect the expansion of businesses currently doing business with California." These claims are untenable based on the number of products potentially affected by NCR-14-01. The limitation of the products which businesses may sell to the inmate consumer not only affects the "expansion of businesses," but may diminish the current business activities of these businesses, which will impact the tax base for California.

NCR -14-01 states that, "The Department has determined that the proposed regulation will not: Affect the health of California residents." This claim is untenable due to the fact that inmates housed within the prisons maintained by the CDCR are "residents" of California, and the limitations applied by NCR-14-01 will affect the health of California residents. This is so because items such as dental adhesive which is necessary for securing dental appliances (dentures) for the ingestion of foods has a direct impact on the nutritional health of the wearer, as well as each inmates quality of life which directly impacts his mental health; toothpaste (pg 25) which affect oral care, is directly linked to cardio vascular health.

RESPONSE: *See Response to Comment 29B. Additionally, CDCR, in partnership with the federal Receiver, is responsible for health care services to all inmate patients and is committed to providing quality care and ensuring access to needed medical and dental supplies and products.*

COMMENT 43C: NCR-14-01 sets out that, "The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed ..." The Department is hereby noticed that the proposed changes are not reasonable because the proposed changes create a disparate differentiation between male and female inmates, which an impermissible gender bias is forbidden by constitutional law. The proposed changes also place the

inmate population in a disadvantageous position in that it unnecessarily limits the products which the inmate population requires for quality of life and compliance with rules and regulations.

RESPONSE: *See Response to Comment 20G.*

COMMENT 43D: Excluding pockets from athletic shorts/sweat pants is simply impractical. PIA produced pants have one pocket. PIA short pants (CDCR issued "athletic wear") come with one pocket. The reason is to provide an inmate with the ability to carry his CDCR Identification card (ID), which is required under CCR Title 15, Section 3019. The exclusion of pockets on athletic shorts provides no means for an inmate to possess his ID during his involvement in sports activities, leisure-time or organized events. We object to this amendment as it is detrimental in nature, is in conflict with state issued athletic wear, and impairs an inmate's ability to comply with rules and regulations as stated above.

RESPONSE: *See Accommodation to Comment 2F.*

COMMENT 43E: The possibility of an inmate being wrongly identified as a correctional officer because he is wearing brown or blue or even black gloves is ludicrous! There simply is no valid security concern with an inmate wearing currently approved gloves. There have been no incidents based on possession of gloves creating a mistaken identity. If the gloves currently held are to be replaced, this will create an undue and unnecessary financial hardship on inmates, inmate's family, and friends. Since this item is permitted to be possessed by the female inmates this clearly does not pose a security risk. Clearly, from the perspective of those subject to these rules changes, this is a wasteful, unnecessary and punitive imposition.

RESPONSE: *This change is supported in the continuing efforts of maintaining safety and security of the institutions and is consistent with other allowable clothing items.*

COMMENT 43F: Eliminating blue watch caps which are currently issued by CDCR and inmate canteens is unnecessary. Inmate outer State clothing is predominately blue and does not present a security concern as suggested. The distinct difference in colors (blue for inmates and green or kaki for staff) has proven effective for the last five decades. We are unaware of any recorded event where an inmate has been mistaken for a correctional officer due to his wearing a blue watch cap. All staff hats and watch caps are green, camouflaged (military style) and black. All come with a badge insignia sewn on the front, with the exception of the Class "A" Uniform hat, which has a badge attached to the front. There is no conflict in design and clearly a difference is present with the badge and/or badge emblem on staff headgear. Again, for the perspective of those subject to these rules changes, this is a wasteful, unnecessary and punitive imposition.

RESPONSE: *The State issued blue watch caps continue to be authorized if issued by CDCR.*

COMMENT 43G: Elimination of head bands cannot be supported as a security concern unless all clothing in the same category classified as such. As any clothing (State issued or personal) items could be used to conceal contraband, the claim of a security concern is ludicrous. Head bands are athletic attire used only in the incident of sport activities, are limited to recreational yards, and are subject to search prior to and upon exit of the recreational yard. A simple comparison may be necessary to visually understand our objections: An athletic supporter which is concealed under outer garments is defined as having "no apparent security risk" (see page 9 of the proposed rules change), where a head band is worn openly and is therefore more readily available for search is considered by the writers of

this document as the greater security risk in "concealment of contraband." Again, from the perspective of those subject to these rules changes, this is a wasteful, unnecessary, and punitive imposition.

RESPONSE: *See Accommodation to Comment 29K.*

COMMENT 43H: Regarding shoelaces one-for-one exchange. Requiring inmates to exchange shoelaces on a one-for-one basis is exasperating at the very least. If an inmate breaks a shoelace, there is no means available to exchange his shoelace unless staff is willing to maintain an inventory readily available for exchange. If this is not what is meant by the one-for-one exchange, then you are telling the inmate population that if their shoelace breaks they will be unable to use their tennis shoes to participate in athletic events or leisure activities until they can receive a quarterly package. (Inmate canteens do not carry shoelaces). The argument that these can be used for suicide is unexplainably stupid, because the State issues shoelaces in every pair of boots, and discarded boots with shoelaces are readily available. The use of one pair of shoelaces (an inmate's backup pair) to prevent the opening or closing a cell door again defies intelligence. Correctional officers have cut-down kits in every housing unit. Shoelaces will not withstand the blade that is contained in the cut-down kit.

RESPONSE: *See Response to Comment 2C.*

COMMENT 43I: Regarding Slippers/House Shoes, Gray or White only. We cannot find a single defensible position for this rules change. The CDCR issues every inmate brown boots. Officers are not authorized to wear "Slippers/House shoes" to work. There is no reason for this rule modification in view of staff being required to have and use foot wear that is limited to black or camouflage. The primary understanding of "slippers/house shoes" is that they are worn inside of the inmate's cell and generally limited to his tier. The foot wear in discussion comes in distinct designs that do not resemble regular shoes, coming in corduroy and/or open heels.

RESPONSE: *For safety and security purposes, the Department is standing by its decision to allow white or gray only.*

COMMENT 43J: Not all laundry detergents are manufactured for machine use and very few if any come with instructions/notice (for machine use only). The writer of this rule change states "adverse effects can occur if this product comes in contact it the body or eyes." It is common knowledge that soap of any type, i.e. bar, liquid or powder will have an adverse effect if it comes in contact with the body or eyes, especially if steps are not taken to rinse the area affected. Again, from the perspective of those subject to these rules changes, this is a wasteful, unnecessary, and costly imposition.

RESPONSE: *See Accommodation to Comment 4B.*

COMMENT 43K: Tooth Paste/Powder. We cannot find a single defensible position for this rule change as written. Requiring inmates to purchase this product in clear technology denies inmates access to medical products such as Aqua Fresh Sensitive tooth paste. To date there is no sensitive tooth paste that is manufactured clear or in a clear container. We strongly feel this rule should be amended to permit medical tooth paste regardless of manufacturing design.

RESPONSE: *See Accommodation to Comment 2B.*

COMMENT 43L: Restricting loofahs to women only is impractical, ludicrous and is gender bias. This product was designed and developed to compliment liquid body soap and to exfoliate the skin and

maintain personal hygiene. Since liquid body soap is not exclusive to women, we strongly feel this rule should be amended and made available to all matrix categories. If these regulation amendments are allowed to pass as written, they promote gender bias, and substantially increase a financial burden/hardship on all inmates.

RESPONSE: CDCR feels the allowance of a wash cloth provides adequate assistance in maintaining hygiene and exfoliation. See also Response to Comment 20G.

COMMENTER #44

COMMENT 44A: We are opposed to any change to the language in the CCR that would lead to a violation of the United State Constitution's Fourteenth Amendment, wherein an inmate's property can be confiscated totally without penological justification and/or grossly out of proportion to the severity of the disciplinary infraction.

In accordance with Title 15, CCR section 3190(j)(2), mandates only upon a classification committee or disciplinary action placing an inmate in Privilege Group C. This section was added for clarification of property standards for inmates in ASU and SHU/PSU, whereupon it would require an inmate to mail out or donate (thereby permanently disposing of) his entertainment appliances and/or musical instrument, therein accordance with CCR section 3191(c).

The aforementioned CCRs are a State created liberty interest mandating that the procedural due process rights be followed prior to the permanent deprivation of an inmate's entertainment appliances and/or musical instruments. Meachum v. Fanco 427 U.S. 215, 223 (1976). Analysis of such due process deprivations requires a reviewing court to determine the language of regulations at issue, and whether the State has followed them.

Swarthout v. Cooke, 131 S.Ct. 859, 861 (2011). The permanent deprivations of the inmates personal property, absent a committee action (of which is limited to entertainment appliances and/or musical instruments) present an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." Sandin v. Conner, 515 U.S. 474, 484 (1995). Because, inmates have a right to current local news information. Procunier v. Martinez, 416 U.S. 396; and Toussaint v. McCarthy, 801 F.2d 1080 (9th Cir. 1986).

We are asking that these regulation changes be reviewed for possible violations of inmate constitutional rights under the Eighth and Fourteenth amendment to the United States Constitution.

RESPONSE: See Response to Comment 33JJ.

COMMENTER #45

COMMENT 45A: It has been brought to my attention that an effort is underway to not allow laundry detergent at facilities that do not have washing machines. My significant other has been incarcerated for almost six years and has never been at a facility with washing machines. He hand washes everything and I order him laundry detergent in his quarterly packages. Please reconsider this effort. It is a personal hygiene and sanitation issue for these men and they use this detergent to wash their clothes, sheets, under garments, socks, etc. Bath soap is not adequate and there is no reason to take this necessity away from these men and women. We would not want to wash our clothing with anything but laundry detergent. I beg the staff at CDCR and those involved to reconsider.

RESPONSE: See Accommodation to Comment 4B.

COMMENTS #46

COMMENT 46A: I am writing concerning the proposal to disallow laundry detergent for inmates' personal laundry. If inmates are no longer able to purchase this product, they will have no alternative but to rely on whatever soap they have on hand which is bar soap. This is not a reasonable option to properly clean clothes, causes plumbing problems due to its inability to break down and dissolve in the pipes and is wasteful of State issued soap. If the concern is of skin sensitivity to laundry soap, then a simple solution is to ask the approved vendors to make a dye free, perfume free product available for sale for the inmates. Inmates are allowed to have personal clothing and should not be restricted from doing their own laundry because of this issue. They have no other option to have clean clothes. Please do not restrict this product from them. It is not the answer to the problem. Please find the proper solution.

RESPONSE: See Accommodation to Comment 4B.

COMMENTS #47

COMMENT 47A: Not sure how you expect the inmates to clean their clothes if they can't use detergent, have you come up with an alternative? Mashing up soap bars to do their laundry is going to cause more problems than the detergent will. They will need to use more water as some of the soap won't come out in the first wash from their clothes, the soap will clog up pipes, and the soap when dried will cause problems getting out of the machine, as there will be soap parts left after the wash. This after time will cause an unhealthy bacteria growth in the machine that can transfer to clothes, then to inmates, not sure how the cost of detergent will balance towards the cost of inmate illness. This is a subject that may need further consideration.

RESPONSE: See Accommodation to Comment 4B.

COMMENTS #48

COMMENT 48A: The proposal that laundry detergent be disallowed where there are no laundry machines. Inmates do their own laundry for a reason. Have you checked out why? They have issues with the existing way laundry is done currently. You need to address the issues not just summarily disallow the detergent. Thank you for your time it will and does make a difference.

RESPONSE: See Accommodation to Comment 4B.

COMMENTS #49

COMMENT 49A: I am a member of Inmate Family Councils both locally at CSP-SAC and on the statewide council. I am writing to voice my dissent to the new Authorized Personal Property Schedule limiting laundry detergent in facilities without inmate access to washing machines. As a physician I recognize the importance of cleanliness; MRSA infections are a constant concern in any area of close crowding. One way to limit these infections is strict cleanliness. Inmates need to keep their clothes clean, a process complicated by requiring them to use bar soap. I request that the new Authorized Personal Property Schedule restricting laundry detergent be reevaluated.

RESPONSE: See Accommodation to Comment 4B.

COMMENTS RECEIVED DURING THE 15-DAY RENOTICE

COMMENTER #1R

COMMENT A: I received your Notice of April 29, 2014, and I would like to make a remark on the headphone issue. I think that we should be allowed to possess a pair of headphones and a pair of earbuds as a backup pair because as you may know, Pelican Bay State Prison is a Level IV and is our pair of headphones broke, we may have to wait a few months just to obtain a new pair. As you know, PBSP does not allow speakers on our television. As they take at least four weeks to issue out packages. For example, I arrived here four months ago and I was not allowed my headphones because they were broken. Clear case headphones break very easy. Either way, I still have not been able to get my hands on a pair of headphones. That is why it is necessary to be allowed a pair of headphones and a pair of earbuds.

RESPONSE: Revised CCR, Title 15 subsection 3190(j)(6) was amended to allow inmates the ability to obtain a replacement set of headphones/earbuds through a special purchase which will help alleviate long wait times, as CDCR will not increase the allowable amount of headphones/earbuds.

COMMENT B: I also think you should approve a bigger flat screen television to allow us more purchasing choices.

RESPONSE: See Accommodation to Comment 18A.

COMMENTER #2R

COMMENT A: Scrabble games. Your proposed revision says "plastic pieces only." I am not aware of any decent Scrabble game where all the pieces are plastic. Scrabble tiles are wood unless you buy one of the more expensive deluxe editions where the tiles are made of the same substance as non-wood dominoes. Tile racks on the other hand can be either wood or plastic. I suggest you require only the tile racks to be made of plastic.

RESPONSE: After careful review, there are Scrabble games available in plastic only, and CDCR will continue to work with authorized vendors to ensure the Scrabble games are reasonably priced.

Comment B: Shorts and sweat pants. I am not aware of either of these manufactured with just one pocket. Please consider allowing two pockets.

RESPONSE: CDCR has evaluated the addition of a second pocket, and due to the increased ability to conceal contraband, CDCR will continue to allow only one pocket.

COMMENTER #3R

COMMENT A: The size of the allowable flat panel screen size was increased from 15.5" to 15.6" to allow inmates more purchasing choices. Attached is an information sheet for a 16" RCA flat panel screen TV. The titles and item description states 16" five times. Specifically, the item description states

two different measurements. 16" LED Panel and 15.6" Screen measured diagonally from corner to corner. These two descriptions are confusing and ambiguous.

The 15.6" screen might be a standard size in the TV industry. The TV industry appears to use 16" as a shorthand reference to a 15.6" TV. Mistakes and errors might be made by CDCR, prisoners, and vendors as to whether commonly described 16" TV would be allowed.

Modification requested: Change the allowed television size from 15.6" to 16". This change will make buying a TV much easier and would avoid mistakes and problems. Alternatively, add a description or generate a memo stating that 16" television are allowed if they have a 15.6" screen measured diagonally. However, this modification might be more confusing than simply changing from 15.6 to 16".

RESPONSE: *Current regulations allow for an overall dimension of 16" X 16" X 20" with a maximum screen size of 15.6 inches.*

COMMENTER #4R

COMMENT A: Subsection 3190(k)(2) is amended to read: "Inmates assigned to Privilege Group C may not possess entertainment appliances and/or a musical instrument. Inmates placed on Privilege Group C pursuant to a disciplinary action pursuant to subsection 3315(f)(5)(C), shall have the disallowed property stored until which time the placement is affirmed by a classification committee. Upon placement in Privilege Group C by the classification committee, the inmate shall be afforded the allowable property identified in the Authorized Personal Property Schedule for Privilege Group C and will be required to dispose of the non-allowable property in accordance with subsection 3191(c)."

The regulation is unclear on Privilege Group C based on a disciplinary action. Senior Hearing Officers have the authority to place an inmate on Privilege Group C for up to 90 days without a classification hearing. Does this mean that non-allowable items identified in the Authorized Personal Property Schedule for Privilege Group C for an inmate placed on Privilege Group C based solely on a disciplinary action are to be stored and then returned to the inmate once the disciplinary period is over? Is disposal of non-allowable items identified in the Authorized Personal Property Schedule only directed at inmates who are placed on Privilege Group C based on a committee action?

RESPONSE: *Yes, the intent is the property is stored locally for the shorter duration of Privilege Group C status that is generally applied by the Senior Hearing Officer, as opposed to longer durations imposed by a Classification Committee.*

COMMENTER #5R

COMMENT A: SHU inmates should be allowed one eraser. Looking at approved vendor Walkenhorsts Spring 2014 catalog, page 153, General's Magic Black Eraser, is for pastels which cleared SHU are allowed.

RESPONSE: *CDCR stands by its decision to continue to disallow erasers for SHU inmates in a continuing effort to ensure the safety and security of our institutions.*

COMMENT B: Under "Chalk, Pastel," for the SHU matrix, woodless color pencils and/or crayons should be included to offer a wider variety of art supplies. Chalk pastels are messy.

RESPONSE: *See Response to Comment 5B.*

COMMENT C: Card Stock/Drawing Paper - remove Canteen only for SHU. SHU property and/or floor officers easily have access to keep track of 128B General Chronos of who is cleared to purchase/receive paper.

RESPONSE: *See Response to Comment 5B.*

COMMENT D: Laundry Detergent should be powder, liquid or bar. As some approved vendors sell bar laundry detergent.

RESPONSE: *The revised Authorized Personal Property Schedule already allows for powder, liquid, or bar laundry detergent.*

COMMENT E: In regards to "Subchapter 4. General Institution Regulations, Article 5, Inmate Discipline." When speaking of loss of privileges (example subsection 3315(f)(5)(K)(1) first offence 90 days loss of canteen, alliance, etc.) "Shall" should be "may" to give the hearing officer discretion. Also what is the time frame from write up to write up? Because there are times when some have been disciplinary free for years, then get a write up and are changed as second, third, etc. offense. It should be capped, such as with specific time period (example, second offense and subsequent offense violation(s) within a year). If an inmate is disciplinary free for one year time, then it will be considered a first offense. It does not seem right if one programs for an extended period of time then slips up. Especially for something minor then is charged as second offense.

RESPONSE: *See Response to Comment 5B.*

COMMENT F: Subsection 3190(o) should also include Headphones/Earbuds.

ACCOMMODATION: *CDCR agrees, and has incorporated Headphones/Earbuds in CCR, Title 15, Section 3190(o). This change was included in the 2nd Notice of Change to Text as Originally Adopted dated May 22, 2014.*

COMMENT G: What is the definition of a "locally approved special purchase vendor, i.e., Radio Shack, Fries Electronics, etc.)? Many of us do not understand this, including PBSP.

RESPONSE: *A locally approved special purchase vendor can be used only for the items listed in CCR, Title 15, Section 3190, while maintaining the specific language/restrictions of the Authorized Personal Property Schedule, i.e., clear case technology.*

COMMENT H: Granted exemptions are noted, but then why is PBSP not abiding by the matrix? PBSP is not allowing inmate packages here in the SHU to include "Bowl or Tumbler." They say canteen only, but these are not canteen only, or per Warden discretion items. We have 602'ed but are not being heard. It seems wasteful to take such issue to court when the Matrix is clear on what is approved per Sacramento. Unnecessary waste of time and money fighting when the Matrix is supposed to be here to avoid all of this. Can we get clarification on Bowls Tumblers here in the SHU because we know Corcoran and Folsom SHU are allowing bowls and tumblers in inmate packages, but not PBSP.

RESPONSE: *See Response to Comment 5B.*

COMMENT I: Protein Supplements in SHU should be "YES" not "Medical RX only." There is no threat by allowing us to get aminos, etc. in our packages or on canteen.

RESPONSE: *See Response to Comment 5B.*

COMMENT J: Body Wash. This item should be approved in SHU as it is not threat.

RESPONSE: *See Response to Comment 5B.*

COMMENT K: I know that I am not totally onto the text change, but some of this staff here have questions to better understand. In all, "thank you." These updates have made some dramatic changes to make living a bit more bearable here in the SHU and I am sure throughout CDCR. All of this was needed a long time coming.

RESPONSE: *The Department appreciates the positive feedback.*

COMMENTS #6R

COMMENT A: Athletic Shorts: This revision allowing, "single pocket...provided the opening is visible on the outside of the garment and in line with the side seam" must be revised. No manufacturer puts just one side pocket in shorts. If they have pockets the manufactory always places '2' pockets in the shorts, located at the "side seam," just like you have printed in the revision, but never one single pocket. All prisoners absolutely must have their prison I.D. card on them at "all times." This is not possible. We go to yard for recreation (basketball, soccer, handball, etc.) and wear shorts. Where do we carry our ID card? The revision to this section must allow shorts with '2' pockets located at the side seam, as no manufacturer makes shorts with just one pocket on the right or left side seam, but not the other side.

RESPONSE: *See response to Commenter 2R-B*

COMMENT B: Sweat Pants: All of the language above concerning athletic shorts also applies to sweat pants as well. No manufacturer makes this garment (sweat pants) or shorts, and places only one pocket on the right seam without including one of the left side seam. Also, this must be revised to include two pockets on the side seams, one on each side. Also, prison officials will misconstrue if not specifically written, "One pocket on each side seam, right, and left side," for both shorts and sweat pants.

RESPONSE: *See response to Commenter 2R-B*

COMMENT C: Ear Buds & Earphones: A prisoner should be allowed to have both of these items as prison officials do not allow prisoners to wear headphones on yard or in the dayrooms, or in ad - seg. Possession of headphones for in cell use and earbuds for out of cell use, and while in bed, is not a problem for prison officials, takes up very little space, and not a problem to prison officials if prisoner has both.

RESPONSE: *CDCR has evaluated the addition of a second set of Headphones/Earbuds, and CDCR stands by its decision to limit the allowable Headphones/Earbuds to one set.*

COMMENT D: Lotions (Including baby oil). This revision is not clearly understood. May a Level IV prisoner have baby oil or not? HDSP officials started selling it in the prison canteen to level four

prisoners for about two months and then came and conducted searches and took it away without any compensation. May a level four prisoner have baby oil or not?

RESPONSE: *No, Level IV inmate may not possess baby oil in accordance to the Authorized Personal Property Schedule.*

COMMENT E: Thank you for the revisions concerning laundry detergent, toothpaste, and deodorant. When do we know if and when all revisions to the Authorized Personal Property Schedule take effect? May I please have a copy of the complete Authorized Personal Property Schedule, most current, when all revisions take effect? High desert SP officials blatantly refuse to pose any of this information.

RESPONSE: *This regulatory action will take effect once it is approved by the Office of Administrative Law and filed with the Secretary of State. Additionally, the final Authorized Personal Property Schedule will be sent to the commenter once rulemaking action is adopted and filed with the Secretary of State.*

COMMENT F: In addition to the above, may I please have a copy of the Religious Personal Property Matrix (Revised 6-27-13). I am Jewish and received non-stop harassment over religious property and confiscation of such by anti-semitic prison officials. Without a copy of the RPPM, which HDSP officials refuse to post, prisoners and staff have no knowledge of what is allowed and it becomes a guessing game. Please provide me with your most current RPPM.

RESPONSE: *See Response to Comment 5B.*

COMMENTS #7R

COMMENT A: As a California inmate, I am looking forward to some of the published changes and clarifications. I am especially pleased with the increased television size, the clarification of what "inside pocket" means, and the continued availability of laundry detergent.

RESPONSE: *The Department appreciates the positive feedback.*

COMMENT B: I have a specific question about the addition of Scrabble (board game) to the matrix for male inmates. I am an avid Scrabble player and Scrabble games have been available at California prisons for many years. Currently Scrabble boards are available here at Pleasant Valley through the "Coach," who also provides free handballs, soccer balls, sets of dominos, etc., for use on the recreation yard and in the dayrooms. I assume that the addition of Scrabble to the matrix, I will not be able to buy a Scrabble game from an approved vendor in a quarterly package. This is wonderful news and I applaud the decision.

My question is why does the language in the matrix specify "plastic pieces only?" I ask that you change the working to "plastic and wood pieces only" for the following three reasons:

1. Standard Scrabble sets come with wooden tiles and the Scrabble games already available to inmates at California prisons have wooden tiles. There are no wooden Scrabble piece security problems that I am aware of.
2. Domino sets, also made with wooden pieces, are available, and have been available to California inmates without incident that I am aware of.

3. Since Scrabble (without the plastic only limitation) is already in the female inmate matrix, approved vendors already have sourced standard Scrabble games and have them available in the quarterly package catalogs for sale. It would be a burden on the approved vendors to source a new "plastic only" version of Scrabble when they already have the standard wood set in inventory.

Example from Walkenhorst's 2014 Spring California Catalog, page 160: *Item #12015-001 Milton Bradley Scrabble \$23.60 16.8 oz.*

RESPONSE: See response to Comment 2R-A.

COMMENTS RECEIVED DURING THE 2ND 15-DAY RENOTICE

COMMENT A: I want to thank you for responding to and considering my comments on the hygiene restrictions and earbuds. I received the Notice of Change to Text as originally adopted." I would like to request that the proposed removal of restrictions related to clear case antiperspirants and toothpaste be implemented so we can again purchase the products we need. As well as the proposed removal of restriction related to clear case earbuds be implemented as well since solid color cased earbuds possess no security threat.

RESPONSE: Your concerns were addressed in the Notice of Change to Text dated April 29, 2014.

COMMENTS RECEIVED DURING THE 2ND 15-DAY RENOTICE

COMMENTS RECEIVED DURING THE 2ND 15-DAY RENOTICE

COMMENT A: In regard to your correspondence dated May 22, 2014. I certainly do have a couple of comments. First, the revision of regulation subsection 3190(o) Special Purchase. Ordering Special Purchase is not the problem. The problem is with ordering, whether Special Purchase or Quarterly Package, is that Pelican Bay State Prison Facility B takes anywhere from four to eight weeks to deliver from the date the package arrives at the institution which violates Departmental Policy Title 15 3134c(4). Also, packages are opened before being issued to inmates. Title 15 3134(c)(3). All requests and CDC form 22 are gone unanswered and 602s are always screened out. I think that Department staff complaints should be amended as program failures and should be subject to temporary loss of their working hours and/or pay cuts, 20% pay cuts for 1st offenses. 30% pay cut for 2nd offenses and 50% pay cut for 3rd offense. Department staff should also be held accountable for infractions and or for violating departmental policy, wouldn't you think? It would only be fair to every soul.

RESPONSE: See Response to Comment 5B.

COMMENTS RECEIVED DURING THE 2ND 15-DAY RENOTICE

COMMENT A: I have a concern which may or may not be related to the proposed change to Subsection 3190(k)(2) on page 6. I would like to ask a question which I have not been able to resolve with staff here at this prison or in the CCR. Question: An assigned inmate is found guilty of a single administrative rule violation and is placed into privilege group C for 30 days pursuant to subsection 3314(e)(3). Are staff allowed to confiscate and store all of his entertainment appliances as part of this punishment?

RESPONSE: See Response to Comment 5B.

COMMENTER 3RR

COMMENT A: If we are to understand this correctly, we no longer will have the option of purchasing “Headphones or Earbuds” as a standalone item along with our quarterly packages? They would not be considered a “Special purchase” item? I am our facilities Men’s Advisory Council Secretary.

RESPONSE: *See Response to Comment 5B.*

COMMENTER 4RR

COMMENT A: The Facility BMAC executive body is responding on behalf of the general inmate population on Facility B at CSP-Solano. We have found issue with the language in subsection 3190(k)(2). In that it is still using the confusing language that “Inmates assigned to Privilege Group C may not possess entertainment appliances and/or musical instruments.” Our issue is that inmates are being placed in privilege group C outside of classification committees by senior hearing officers. This usually occurs on their first offense when they are ineligible to be considered a “Program Failure” as defined under subsection 300 of the California Code of Regulations, Title 15. The point of confusion is whether or not the inmate should just be losing his entertainment appliances and/or musical instruments during this period or should the allowable property matrix be applied with non-allowable property being stored. It is even unclear when the property should be taken. Is it directly after the hearing or after the chief disciplinary officer has evaluated the findings and signed off the review? This section does not speak to when the property should be returned if the inmate is not going to classification committee. What we know for certain is that the added language saying, “pursuant to subsection 3315(f)(5)(C)” is so ambiguous that both staff and inmates are unsure how it should be applied. Whether this section pertains to inmates on the first offense for subsection 3016(a), 3016(c) and or 3290(d) only or whether it can be applied to any offense. The questions we would like to clarify in the language is who should be put on C status and by whom should they be placed therein? Please notify us of any further changes to these regulations.

RESPONSE: *See Response to Comment 5B.*